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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

No. 26067 Criminal

UNITED STATES OF AMERICA

vs.

THOMAS JOHNSON
FRANK BOYKIN
J. KENNETH EDLIN
WILLIAM ROBINSON

Baltimore, Maryland

April 1, 1963

INDICTMENT

The Grand Jury for the District of Maryland charges:

(1) That at all times hereinafter mentioned THOMAS F. JOHNSON was a member of the House of Representatives of the United States of America, representing the First Congressional District of Maryland.

(2) That at all times hereinafter mentioned FRANK W. BOYKIN was a member of the House of Representatives of the United States of America, representing the First Congressional District of Alabama.

(3) That at all times hereinafter mentioned the Department of Justice was a Department of the United States, created, organized and existing by virtue of Chapter 150 of 16 Stat. 162, entitled "An Act to establish the Department of Justice," enacted by the Congress of the United States on June 22, 1870, and charged with the responsibility of enforcing the laws of the United States.

(4) That at all times hereinafter mentioned the Attorney General of the United States was the head of the said

Department of Justice, and was assisted in the performance of his duties by the Assistant Attorney General, Criminal Division, Department of Justice.

(5) That at all times hereinafter mentioned FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., was a corporation organized and existing under and by virtue of the laws of the State of Maryland, with its principal places of business at Prince Frederick and Elkton, Maryland.

(6) That at all times hereinafter mentioned FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., was a corporation, organized and existing under and by virtue of the laws of the State of Maryland, with its principal places of business located at Prince Frederick and Chevy Chase, Maryland.

(7) That from April 27, 1961, until on or about December 31, 1961, CHARLES COUNTY LAND COMPANY, INC., was a corporation organized and existing under and by virtue of the laws of the State of Maryland, with its principal place of business located at La Plata, Maryland.

(8) That from on or about May 2, 1961, until on or about December 31, 1961, LEISURE CITY LAND COMPANY, INC., was a corporation organized and existing under and by virtue of the laws of the State of Virginia, with its principal place of business located at Brooke, Virginia.

(9) That at all times hereinafter mentioned TENSAW LAND AND TIMBER COMPANY was a corporation organized and existing under and by virtue of the laws of the State of Alabama, with its principal place of business at Mobile, Alabama.

(10) That at all times hereinafter mentioned J. KENNETH EDLIN dominated and controlled the business policies and operations of the said FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., and the said FIRST CONTINENTAL SAVINGS AND LOAN ASSO-

CIATION, INC.; that at all times hereinbefore mentioned in paragraph 7 J. KENNETH EDLIN dominated and controlled the business policies and operations of the said CHARLES COUNTY LAND COMPANY, INC.; and that at all times hereinbefore mentioned in paragraph 8 J. KENNETH EDLIN dominated and controlled the business policies and operations of the said LEISURE CITY LAND COMPANY, INC.

(11) That at all times hereinafter mentioned WILLIAM L. ROBINSON was counsel, legal advisor, a director and an officer of the said FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., and of the said FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.; that at all times hereinbefore mentioned in paragraph 7 WILLIAM L. ROBINSON was a director and an officer of the said CHARLES COUNTY LAND COMPANY, INC.; and that at all times hereinbefore mentioned in paragraph 8 WILLIAM L. ROBINSON was a director and an officer of the said LEISURE CITY LAND COMPANY, INC.

(12) That at all times hereinafter mentioned FRANK W. BOYKIN owned a substantial interest in the said TENSAW LAND AND TIMBER COMPANY and dominated and controlled the business policies and operations of the said TENSAW LAND AND TIMBER COMPANY.

(13) That on November 17, 1959, an indictment was returned in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of the said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin and Jackson D. Rains," which said indictment was pending in said Court at all times hereinafter mentioned.

(14) That from on or about April 1, 1960, and continuously thereafter until on or about December 31, 1961,

THOMAS F. JOHNSON,
FRANK W. BOYKIN,
J. KENNETH EDLIN, and
WILLIAM L. ROBINSON,

herein named as defendants, together with FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., CHARLES COUNTY LAND COMPANY, INC., LEISURE CITY LAND COMPANY, INC., and TENSAW LAND AND TIMBER COMPANY, herein named as co-conspirators but not indicted, and with other persons to the Grand Jurors unknown, did unlawfully, feloniously, wilfully, and knowingly combine, conspire, confederate, and agree together and with each other within the State and District of Maryland and at various other places to the Grand Jurors unknown, to defraud the United States of and concerning its governmental functions and rights hereinafter described, to wit:

(a) Of and concerning its right to have its business and affairs, and particularly the transaction of the official business of the Department of Justice, conducted honestly and impartially as the same should be conducted, free from corruption, fraud, improper and undue influence, dishonesty, unlawful impairment and obstruction.

(b) Of and concerning its right to have its officers and employees, and particularly personnel of the Department of Justice, free to transact the official business of the United States unhindered, unhampered, unobstructed and unimpaired by the exertion upon them of dishonest, corrupt, unlawful, improper and undue pressure and influence.

(c) Of and concerning its right to have the lawful functions and duties of the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN in their official capacities as Members of the House of Representatives of the United States exercised, performed and administered free from corruption, dishonesty and fraud resulting from their

personal and pecuniary interest in the success of J. KENNETH EDLIN, WILLIAM L. ROBINSON, FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., CHARLES COUNTY LAND COMPANY, INC., LEISURE CITY LAND COMPANY, INC., and TENSAW LAND AND TIMBER COMPANY in attempting to persuade the Department of Justice and officials thereof to cause the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of the said indictment.

(d) Of and concerning its right not to be deprived of the faithful, loyal and conscientious services of the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN in their official capacities as Members of the House of Representatives and as Members of Congress, uninfluenced by corruption and by payments of money and other valuable considerations to the said THOMAS F. JOHNSON and FRANK W. BOYKIN by the said other defendants and the said co-conspirators as compensation for service rendered and to be rendered by said THOMAS F. JOHNSON in behalf of the said other defendants and the said co-conspirators in relation to matters pending in the House of Representatives and for services rendered by the said THOMAS F. JOHNSON and FRANK W. BOYKIN before the Department of Justice in relation to proceedings, charges and accusations in which the United States is a party and directly interested.

(15) It was a part of said conspiracy that the said THOMAS F. JOHNSON should, at the request of the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON, render services, for compensation, to said defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON and to co-conspirators FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., and FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., to wit, the making of a speech, defending

the operations of Maryland's "independent" savings and loan associations, the financial stability and solvency thereof, and the reliability and integrity of the "commercial insurance" on investments made by said "independent" savings and loan associations, on the floor of the House of Representatives.

(16) It was a part of said conspiracy that the defendants THOMAS F. JOHNSON, J. KENNETH EDLIN and WILLIAM L. ROBINSON would cause to be reprinted 50,000 copies of the aforesaid speech, delivered by the defendant THOMAS F. JOHNSON, for distribution to the public at large, to prospective depositors in the FIRST COLONY SAVINGS AND LOAN ASSOCIATION, INC., and the FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., and to members of the General Assembly of Maryland during its 1961 session.

(17) It was a part of said conspiracy that the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON and others would meet from time to time to prepare and discuss the contents of a memorandum to be presented to the Department of Justice and officials thereof to attempt to persuade the Department of Justice and officials thereof to cause the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of the said indictment.

(18) It was a part of said conspiracy that the said J. KENNETH EDLIN and WILLIAM L. ROBINSON and the said co-conspirators would corruptly give and pay money and other valuable considerations to the said THOMAS F. JOHNSON and FRANK W. BOYKIN to bring the prestige, weight and influence of their said offices to bear upon officials of the Department of Justice in order to promote the interests and desires of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON and of the said co-conspirators in relation to the indictment hereinbefore described in paragraph 13.

(19) It was a part of said conspiracy that the said THOMAS F. JOHNSON and FRANK W. BOYKIN should, at the request of the said other defendants and the said co-conspirators, render services, for compensation, to said other defendants and the said co-conspirators in relation to said indictment, to wit, by interceding with and exerting their official influence upon the officials of the Department of Justice and bringing the prestige, weight and influence of their said official position to bear upon them and upon the Department of Justice in order to obtain decisions and actions upon said indictment which would be desirable, beneficial and advantageous to said other defendants and the said co-conspirators.

(20) It was a part of said conspiracy that the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN and WILLIAM L. ROBINSON would call upon, confer with, write letters to, and make telephone calls to the Attorney General of the United States and the Assistant Attorney General, Criminal Division, Department of Justice, at their offices in the Department of Justice to attempt to persuade the Department of Justice and officials thereof to cause the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of the said indictment, and as compensation therefor the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN would receive money, promises and other valuable considerations from the said other defendants and the said co-conspirators.

(21) It was part of said conspiracy that the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN would request Charles H. Z. Meyer, Supervisor, United States Probation and Parole Service, Chicago, Illinois, to come to the District of Columbia for the stated purpose of assisting the said THOMAS F. JOHNSON and FRANK W. BOYKIN in a Congressional investigation involving savings and loan associations, and particularly the background of the defendant J. KENNETH EDLIN and his

relation thereto, and that the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN would take Meyer to the Department of Justice to attempt to persuade the Department of Justice and officials thereof to cause the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of the said indictment.

(22) It was a part of said conspiracy that the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON would form a corporation known as Charles County Land Company, Inc., to take title to a tract of land in Charles County, Maryland, in which TENSAW LAND AND TIMBER COMPANY held a substantial proprietary interest, and from which the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN would receive compensation for their actions and services on behalf of the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON and the aforesaid co-conspirators, as more particularly described herein.

(23) It was part of said conspiracy that the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON would form a corporation known as Leisure City Land Company, Inc., to take title to a tract of land in Stafford County, Virgina, in which TENSAW LAND AND TIMBER COMPANY held a substantial proprietary interest, and from which the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN would receive compensation for their actions and services on behalf of the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON and the aforesaid co-conspirators, as more particularly described herein.

(24) It was a part of said conspiracy that the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON would pay the defendant FRANK W. BOYKIN and TENSAW LAND AND TIMBER COMPANY the sum of Two Hundred Fifty Thousand Dollars ($250,000.00), and would offer and promise to the defendant FRANK W. BOYKIN and TENSAW LAND AND TIMBER COM-

PANY commissions and other valuable considerations as an inducement for the defendant FRANK W. BOYKIN to use his influence as a member of the House of Representatives in attempting to secure the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of the said indictment.

(25) It was a part of said conspiracy that the said defendants and co-conspirators would conceal the aforesaid receipt of money, promises and other valuable considerations by the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN and would do such other and further acts as they might deem necessary and expedient to prevent the disclosure of the said receipt of money, promises and other valuable considerations by the said THOMAS F. JOHNSON and FRANK W. BOYKIN.

OVERT ACTS

In pursuance of and in order to effect the objects of said conspiracy, the defendants and co-conspirators did do and perform numerous overt acts, including the following, to wit:

(1) During the period from on or about April 1, 1960, to on or about June 30, 1960, the defendants J. KENNETH EDLIN, WILLIAM L. ROBINSON and THOMAS F. JOHNSON met in the Congressional office of defendant THOMAS F. JOHNSON, the Woodner Hotel, and the Congressional Hotel, in the District of Columbia, and discussed the contents of a proposed speech to be given by the defendant THOMAS F. JOHNSON on the floor of the House of Representatives.

(2) Between on or about April 1, 1960, and on or about June 30, 1960, in the District of Maryland and in the District of Columbia, the defendant WILLIAM L. ROBINSON and others prepared drafts of a proposed speech to be given by the defendant THOMAS F. JOHNSON.

(3) On or about June 20, 1960, the defendant WILLIAM L. ROBINSON delivered a check drawn on his account at the Industrial National Bank of Miami, Florida, in the amount of $500, to the defendant THOMAS F. JOHNSON, payable to the defendant THOMAS F. JOHNSON.

(4) On or about June 30, 1960, in the District of Columbia, the defendant THOMAS F. JOHNSON delivered a speech on the floor of the House of Representatives.

(5) On or about July 5, 1960, in the District of Maryland, FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., drew a check for $168.91, payable to the defendant THOMAS F. JOHNSON.

(6) On or about July 6, 1960, in the District of Columbia, the defendant THOMAS F. JOHNSON caused and directed the reprinting of 10,000 copies of the speech delivered on the floor of the House of Representatives on June 30, 1960, by the defendant THOMAS F. JOHNSON.

(7) On or about August 12, 1960, in the District of Columbia, the defendant THOMAS F. JOHNSON caused and directed the reprinting of 40,000 copies of the speech delivered on the floor of the House of Representatives on June 30, 1960, by the defendant THOMAS F. JOHNSON.

(8) On or about September 9, 1960, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $1,000.00, dated August 30, 1960, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(9) On or about November 4, 1960, the defendant WILLIAM L. ROBINSON issued and delivered a check drawn on his account at the Industrial National Bank of Miami, Florida, in the amount of $300, to the defendant THOMAS F. JOHNSON, payable to Russell O. Hickman, Treasurer for Tom Johnson for Congress Committee.

(10) On or about November 4, 1960, in the Dis-

trict of Maryland, the defendant J. KENNETH EDLIN caused the FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., to draw a check in the amount of $300, payable to the defendant WILLIAM L. ROBINSON, as reimbursement for the check described in Overt Act 9.

(11) On or about January 13, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $800.00, dated January 7, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(12) On or about February 10, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $800.00, dated February 2, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(13) On or about March 2, 1961, at Miami, Florida, the defendant J. KENNETH EDLIN reserved accommodations at the Eden Roc Hotel, for the defendant THOMAS F. JOHNSON.

(14) During the period from on or about March 3, 1961, to on or about March 7, 1961, the defendants THOMAS F. JOHNSON, J. KENNETH EDLIN and WILLIAM L. ROBINSON met at Miami, Florida.

(15) On or about March 8, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $800, dated March 6, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(16) On or about March 24, 1961, the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN, J. KENNETH EDLIN, WILLIAM L. ROBINSON and others met in the District of Columbia.

(17) On or about March 25, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN, and WILLIAM L. ROBINSON called upon the Attorney General of the United States.

(18) On or about March 25, 1961, immediately after the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN, and WILLIAM L. ROBINSON had called upon the Attorney General of the United States, the defendants THOMAS F. JOHNSON, FRANK W. BOYKIN, J. KENNETH EDLIN, WILLIAM L. ROBINSON and others met in the District of Columbia.

(19) On or about March 28, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON caused to be delivered to the Attorney General of the United States a memorandum together with a covering letter addressed to the Attorney General of the United States.

(20) On or about April 3, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $800.00, dated March 31, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(21) On or about April 17, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON called upon the Attorney General of the United States and the Assistant Attorney General, Criminal Division, Department of Justice.

(22) On or about April 26, 1961, in the District of Columbia, the defendant J. KENNETH EDLIN delivered to the defendant FRANK W. BOYKIN two cashier's checks, dated April 26, 1961, each for $125,000.00, payable to TENSAW LAND AND TIMBER COMPANY and issued by the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland.

(23) On or about April 27, 1961, in the District of Maryland, the defendants J. KENNETH EDLIN, WILLIAM

L. ROBINSON, THOMAS F. JOHNSON and FRANK W. BOYKIN caused and directed the incorporation of CHARLES COUNTY LAND COMPANY, INC.

(24) On or about April 29, 1961, the defendants J. KENNETH EDLIN, WILLIAM L. ROBINSON, THOMAS F. JOHNSON and FRANK W. BOYKIN caused the sale of a certain tract of land in Stafford County, Virginia, from TENSAW LAND AND TIMBER COMPANY to LEISURE CITY LAND COMPANY, INC., for $3,000,000.

(25) On or about May 2, 1961, the defendants J. KENNETH EDLIN, WILLIAM L. ROBINSON, THOMAS F. JOHNSON and FRANK W. BOYKIN caused and directed the incorporation of LEISURE CITY LAND COMPANY, INC.

(26) On or about May 3, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(27) On or about May 4, 1961, the defendant FRANK W. BOYKIN deposited in the United States mail a letter addressed to the Assistant Attorney General, Criminal Division, Department of Justice.

(28) On or about May 8, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $3,500.00, dated May 2, 1961, and drawn by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.

(29) On or about May 9, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON deposited in the United States mail a letter addressed to the Assistant Attorney General, Criminal Division, Department of Justice.

(30) On or about May 13, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN forwarded to

the defendant J. KENNETH EDLIN a letter from the Assistant Attorney General, Criminal Division, Department of Justice.

(31) On or about May 15, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN forwarded to the defendant J. KENNETH EDLIN a letter from the Attorney General of the United States.

(32) On or about May 15, 1961, in the District of Maryland, FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., entered into a lease with the defendant THOMAS F. JOHNSON and his wife, providing for the rental by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC., of a building owned by the defendant THOMAS F. JOHNSON and his wife in Snow Hill, Maryland, at a monthly rental of $200.

(33) On or about May 22, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(34) On or about May 22, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(35) On or about May 23, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(36) On or about June 5, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $2,500.00, dated May 25, 1961, and drawn by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.

(37) On or about June 7, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a tele-

phone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(38) On or about June 9, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $4,000.00, dated June 7, 1961, and drawn by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.

(39) On or about June 12, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(40) On or about June 13, 1961, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN telephoned Charles H. Z. Meyer, Supervisor, United States Probation and Parole Service, Chicago, Illinois.

(41) On or about June 13, 1961, in Chicago, Illinois, the defendant J. KENNETH EDLIN telephoned Charles H. Z. Meyer, Supervisor, United States Probation and Parole Service, Chicago, Illinois.

(42) On or about June 13, 1961, the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON met Charles H. Z. Meyer in the Palmer House Hotel, Chicago, Illinois.

(43) On or about June 15, 1961, in the District of Columbia, the defendants J. KENNETH EDLIN, WILLIAM L. ROBINSON, FRANK W. BOYKIN, and THOMAS F. JOHNSON met with Charles H. Z. Meyer.

(44) On or about June 15, 1961, in the District of Columbia, the defendants J. KENNETH EDLIN, WILLIAM L. ROBINSON, FRANK W. BOYKIN and THOMAS F. JOHNSON took Charles H. Z. Meyer to call upon the Assistant Attorney General, Criminal Division, Department of Justice, and other officials of the Department of Justice.

(45) On or about June 19, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(46) On or about June 23, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(47) On or about June 27, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(48) On or about June 28, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $3,250.00, dated June 28, 1961, and drawn by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.

(49) On or about August 1, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(50) On or about August 7, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $2,000.00, dated August 4, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(51) On or about August 24, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(52) On or about August 24, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(53) On or about August 31, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(54) On or about September 7, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON called upon the Attorney General of the United States.

(55) On or about September 8, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(56) On or about September 9, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(57) On or about September 14, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(58) On or about September 15, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(59) On or about September 19, 1961, at Berlin, Maryland, the defendant THOMAS F. JOHNSON deposited to his account in the Exchange and Savings Bank a check for $1,500.00, dated September 12, 1961, and drawn on the account of the defendant WILLIAM L. ROBINSON at the Industrial National Bank, Miami, Florida.

(60) On or about September 20, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(61) On or about September 21, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and

FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(62) On or about October 10, 1961, in the District of Columbia, the defendant THOMAS F. JOHNSON made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(63) On or about October 12, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(64) On or about October 13, 1961, in the District of Columbia, the defendant WILLIAM L. ROBINSON called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(65) On or about October 16, 1961, in the District of Columbia, the defendants THOMAS F. JOHNSON and FRANK W. BOYKIN called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(66) On or about October 18, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(67) On or about October 19, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN deposited in the United States mail a letter to the Attorney General of the United States.

(68) On or about October 20, 1961, in the District of Columbia, the defendant WILLIAM L. ROBINSON called upon the Assistant Attorney General, Criminal Division, Department of Justice.

(69) On or about October 20, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(70) On or about October 23, 1961, in the District of

Columbia, the defendant THOMAS F. JOHNSON made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(71) On or about October 23, 1961, in the District of Columbia, the defendants J. KENNETH EDLIN and WILLIAM L. ROBINSON delivered to the defendant THOMAS F. JOHNSON travelers' checks in the total sum of $3,000, issued by FIRST CONTINENTAL SAVINGS AND LOAN ASSOCIATION, INC.

(72) On or about October 25, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(73) On or about October 30, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

(74) On or about November 6, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN deposited in the United States mail a letter to the Attorney General of the United States.

(75) On or about November 21, 1961, in the District of Columbia, the defendant FRANK W. BOYKIN made a telephone call to the Assistant Attorney General, Criminal Division, Department of Justice.

United States Code, Title 18, Section 371.

SECOND COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about April 3, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK

W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Eight Hundred Dollars ($800.00), to wit, the proceeds of a bank check bearing date March 31, 1961, being in the sum of $800.00, payable to the order of Johnson and Johnson, and bearing the name of the defendant WILLIAM L. ROBINSON as maker, which said check was drawn on the Industrial National Bank of Miami, Florida, and was deposited in, credited to, and final payment in the sum of $300.00 made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about April 3, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the said defendants then and there well knew, was pending in said Court on April 3, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise

acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

THIRD COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about May 8, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and curruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Thirty-five Hundred Dollars ($3500.00), to wit, the proceeds of a bank check bearing dated May 2, 1961, being in the sum of $3500.00, payable to the order of Johnson and Johnson, and bearing the name of First Continental Savings and Loan Association, Inc., as maker, which said check was drawn on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland, and deposited in, credited to, and final payment in the sum of $3,500.00, made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about May 8, 1961, the date and place of the receipt of said check by the de-

fendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on May 8, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige, weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

FOURTH COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about June 5, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK

W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Twenty-five Hundred Dollars ($2,500.00), to wit, the proceeds of bank check bearing date May 25, 1961, being in the sum of $2,500.00, payable to the order of Johnson and Johnson, and bearing the name of First Continental Savings and Loan Association, Inc., as maker, which said check was drawn on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland, and deposited in, credited to, and final payment in the amount of $2,500.00 made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about June 5, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on June 5, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige, weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, pre-

senting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

FIFTH COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about June 9, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Four Thousand Dollars ($4,000.00), to wit, the proceeds of a bank check bearing date June 7, 1961, being in the sum of $4,000.00, payable to the order of Johnson and Johnson, and bearing the name of First Continental Savings and Loan Association, Inc., as maker, which said check was drawn on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland, and deposited in, credited to, and final payment in the sum of $4,000.00 made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings

Bank, Berlin, Maryland, on or about June 9, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on June 9, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige, weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

SIXTH COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about June 28, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his

election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Three Thousand Two Hundred Fifty Dollars ($3,250.00), to wit, the proceeds of a bank check bearing date June 28, 1961, being in the sum of $3,250.00, payable to Johnson and Johnson, and bearing the name of First Continental Savings and Loan Association, Inc., as maker, which said check was drawn on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland, and deposited in, credited to, and final payment in the sum of $3,250.00 made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about June 28, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on June 28, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige,

weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

SEVENTH COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about August 7, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a defendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Two Thousand Dollars ($2,000.00), to wit, the proceeds of a bank check bearing date August 4, 1961, being in the sum of $2,000.00, payable to Johnson and Johnson, and bearing the name of the defendant WILLIAM L. ROBINSON as maker, which said check was drawn on the Industrial National Bank of Miami, Florida, and deposited in, credited to, and final payment in the sum of $2,000.00

made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about August 7, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on August 7, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice, bringing the prestige, weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

EIGHTH COUNT

And the Grand Jury for the District of Maryland further charges:

That on or about September 19, 1961, in the District of Maryland, THOMAS F. JOHNSON, herein named a de-

fendant, being duly elected a Member of Congress, and after his election and qualification as such and during his continuance in office, acting jointly and in concert with FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON, also named as defendants herein, the said FRANK W. BOYKIN, J. KENNETH EDLIN and WILLIAM L. ROBINSON aiding, abetting, counselling, commanding, inducing and procuring the defendant THOMAS F. JOHNSON so to act, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, from the said J. KENNETH EDLIN and WILLIAM L. ROBINSON, compensation in the sum of Fifteen Hundred Dollars ($1,500.00), to wit, the proceeds of a bank check bearing date September 12, 1961, being in the sum of $1,500.00, payable to Johnson and Johnson, and bearing the name of the defendant WILLIAM L. ROBINSON as maker, which said check was drawn on the Industrial National Bank of Miami, Florida, and deposited in, credited to, and final payment in the sum of $1,500.00 made thereon to the account of the said THOMAS F. JOHNSON at the Exchange and Savings Bank, Berlin, Maryland, on or about September 19, 1961, the date and place of the receipt of said check by the defendant THOMAS F. JOHNSON being to the Grand Jurors unknown, for services rendered and to be rendered by him, the said THOMAS F. JOHNSON, before the Department of Justice of the United States in relation to a proceeding, charge and accusation in which the United States was a party and directly interested, to wit: an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland, being numbered 25038 on the dockets and records of said Court and styled, "United States of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland corporation, Rosabelle Edlin, and Jackson D. Rains," and which, as the defendants then and there well knew, was pending in said Court on September 19, 1961, the said services consisting of interceding and conferring with officials of the said Department of Justice,

bringing the prestige, weight and influence of the said defendant THOMAS F. JOHNSON'S official position to bear upon them, presenting assertions, arguments and allegations, and otherwise acting on behalf of the said J. KENNETH EDLIN and WILLIAM L. ROBINSON to influence and persuade the said Officials of the said Department of Justice in order to obtain favorable decisions and actions in and upon the aforesaid proceeding, charge and accusation, to wit, the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of the said indictment.

United States Code, Title 18, Sections 281 and 2.

A TRUE BILL:

/s/ JOSEPH D. TYDINGS,
United States Attorney

DOCKET ENTRIES

1962

Oct. 16—Indictment for Viol. U.S.C., Title 18, Secs. 371; 281; and 2, filed. (Conspiracy to defraud the United States; Compensation to Member of Congress in matters affecting the Government; Aiding and Abetting).

Oct. 16—Requests of United States Attorney for issuance of Bench Warrant as to each Defendant, Recommendations as to Bails and Orders of Court (Northrop, J.) thereon, filed.

Oct. 16—Bench Warrant Issued as to Defendant Thomas F. Johnson (Cepi on Bail—17-Oct.-1962).

Oct. 16—Bench Warrant Issued as to Defendant Frank W. Boykin (Executed 18th October, 1962).

Oct. 16—Bench Warrant Issued as to Defendant J. Kenneth Edlin (Executed 18th October, 1962).

Oct. 16—Bench Warrant Issued as to Defendant William L. Robinson (Executed 18th October, 1962).

Oct. 17—Order (Northrop, J.) reducing bail as to Defendant Thomas F. Johnson to the amount of Five Thousand Dollars, ($5,000.00), filed. (See paper No. 2).

Oct. 17—Recognizance, as to Defendant Thomas F. Johnson, filed.

Oct. 22—Recognizance as to Defendant Frank W. Boykin, filed.

Oct. 26—Appearance of Harry Adelberg, Esquire as attorney for Defendant Thomas F. Johnson, Order filed.

Oct. 26—Appearance of Edward Bennett Williams, Esquire as attorney for Defendant Frank W. Boykin, Order filed.

Oct. 26—Appearance of Edward A. Palamara, Esquire as attorney for Defendant J. Kenneth Edlin (for the purpose of arraignment only), Order filed.

Oct. 26—Defendants arraigned and each plead "Not Guilty".

Nov. 26—Order of Removal as to Defendant J. Kenneth Edlin from the U. S. District Court for the Southern District of Florida, Miami Division together with Waiver of Removal Hearing, Appearance Bond and Certified copy of Indictment, filed.

Nov. 26—Order of Removal as to Defendant William L. Robinson from the U. S. District Court for the Southern District of Florida, Miami Division together with Waiver of Removal Hearing Appearance Bond and Certified copy of Indictment, filed.

Nov. 26—Motion of Defendant, William L. Robinson, for a Bill of Particulars, filed.

Nov. 26—Motion of Defendant, Thomas F. Johnson, for Bill of Particulars and Citations of authorities in support thereof, filed.

Nov. 26—Motion of Defendant, Frank W. Boykin, for Bill of Particulars and Memorandum in support thereof, filed.

Dec. 3—Appearance of Edward L. Genn, Esquire as attorney for Defendant J. Kenneth Edlin, Order filed.

Dec. 3—Motion of Defendant J. Kenneth Edlin for Bill of Particulars, filed.

Dec. 3—Supplemental Motion of Defendant J. Kenneth Edlin for a Bill of Particulars, filed.

Dec. 5—Answers of United States of America to Motion of Defendant Thomas F. Johnson for Bill of Particulars, filed.

Dec. 5—Answer of United States of America to Motion of Defendant Frank W. Boykin for Bill of Particulars, filed.

Dec. 5—Answer of United States of America to Motion of Defendant J. Kenneth Edlin for Bill of Particulars, filed.

Dec. 5—Answer of United States of America to Motion of Defendant, William L. Robinson for Bill of Particulars, filed.

Dec. 6—Answer of United States of America to Supplemental Motion of Defendant, J. Kenneth Edlin for Bill of Particulars, filed.

Dec. 7—Hearing on Motions of Defendants William L. Robinson, Thomas F. Johnson and Frank W. Boykin for Bills of Particulars; and Motion and Supplemental Motion of J. Kenneth Edlin for Bill of Particulars, before Thomsen, C. J.

Dec. 19—Bill of Particulars of Plaintiff, filed.

Dec. 26—Motion of Defendant J. Kenneth Edlin to Dismiss indictment and points and authorities in support thereof, filed.

Dec. 27—Motion of Defendant Frank W. Boykin for production of transcript of Grand Jury testimony and memorandum in support thereof and Affidavit, filed.

Dec. 27—Motion of Defendant Frank W. Boykin for production of documents &c., filed.

Dec. 27—Motion of Defendant Frank W. Boykin to Dismiss count one for duplicity, memorandum in support thereof and exhibits, filed.

Dec. 27—Motion of Defendant Frank W. Boykin to Dismiss counts two through eight for failure to state an offense against the United States and memorandum in support thereof, filed.

Dec. 27—Motion of Defendant Frank W. Boykin to Dismiss counts two through eight for failure to allege the commission of an offense within the District of Maryland and memorandum in support thereof, filed.

Dec. 27—Certificate of Service of Defendant Frank W. Boykin of Motions, filed.

Dec. 27—Motion of Defendant Thomas F. Johnson to Dismiss first count of indictment, filed.

Dec. 27—Motion of Defendant Thomas F. Johnson to Dismiss first count of indictment for lack of jurisdiction, filed.

Dec. 27—Motion of Defendant Thomas F. Johnson for production of documents, filed.

Dec. 27—Motion of Defendant Thomas F. Johnson to Dismiss all counts of the indictment for failure to show venue of the offenses charged within the District of Maryland, filed.

1963

Jan. 16—Transcript of proceedings before Thomsen, C. J. on December 7, 1962 Re: Motions of Defendants for Bills of Particulars, filed. (Filed Separately).

Jan. 18—Motion of Defendant Thomas F. Johnson to Dismiss the Substantive Counts of the Indictment, filed.

Jan. 19—Memorandum of United States of America in opposition to Motion of Defendant Frank W. Boykin, to dismiss Count 1 for duplicity, filed.

Jan. 19—Memorandum of United States of America in opposition to Motion of Defendant, Frank W. Boykin, to dismiss Counts 2 through 8, for failure to state an offense against the United States, filed.

Dec. 19—Answer of United States of America to Motion of Defendant, Frank W. Boykin, for Production of Transcript of Grand Jury testimony, filed.

Jan. 19—Answer of United States of America to Motion of Defendant, Thomas F. Johnson, for Production, filed.

Jan. 19—Answer of United States of America to Motion of Defendant, Frank W. Boykin, for Production under Rules 16 and 17 (c), filed.

Jan. 22—Memorandum of United States of America in opposition to Motion of Thomas F. Johnson to dismiss the first count of the Indictment for Lack of Jurisdiction, filed.

Jan. 22—Memorandum of United States of America in opposition to Motion of Thomas F. Johnson to dismiss the first count of the Indictment, filed.

Jan. 22—Memorandum of United States of America in opposition to Motion of Defendant Thomas F. Johnson to dismiss each and all counts of the Indictment by reason of their failure to show venue of the offenses charged within the District of Maryland, filed.

Jan. 22—Memorandum of United States of America in opposition to motions of Defendants Thomas F. Johnson and Frank W. Boykin for discovery, filed.

Jan. 22—Memorandum of United States of America in opposition to motion of Defendant Frank W. Boykin to

dismiss counts 2 through 8 for failure to allege the Commission of an offense within the District of Maryland, filed.

Jan. 22—Memorandum of United States of America in opposition to Motion of Defendant, J. Kenneth Edlin to dismiss Indictment, filed.

Jan. 25—Hearing on (1) Motion of Defendant J. Kenneth Edlin to Dismiss indictment and points and authorities in support thereof, (2) Motion of Defendant Frank W. Boykin for production of transcript of Grand Jury testimony and memorandum in support thereof and affidavit, (3) Motion of Defendant Frank W. Boykin for production documents &c, (4) Motion of Defendant Frank W. Boykin to Dismiss count one for duplicity, memorandum in support thereof and exhibits, (5) Motion of Defendant Frank W. Boykin to Dismiss counts two through eight for failure to state an offense against the United States and memorandum in support thereof, (6) Motion of Defendant Frank W. Boykin to Dismiss counts two through eight for failure to allege the commission of an offense within the District of Maryland and memorandum in support thereof, (7) Motion of Defendant Thomas F. Johnson to Dismiss first count of indictment, (8) Motion of Defendant Thomas F. Johnson to Dismiss first count of indictment for lack of jurisdiction, (9) Motion of Defendant Thomas F. Johnson for production of documents, (10) Motion of Defendant Thomas F. Johnson to Dismiss all counts of the indictment for failure to show venue of the offenses charged within the District of Maryland, before Thomsen, C. J.

Jan. 25—Argument of counsel not concluded, to be resumed at a later date.

Feb. 1—Affidavit in Support of Motion of the Defendant Thomas F. Johnson, for the Production of Documents, filed.

Feb. 1—Hearing on Motions of the Defendants (before

Thomsen, C. J.) continued from January 25, 1963, Argument not concluded, to be resumed at a later date.

Feb. 8—Supplemental Memorandum of United States of America in opposition to Motion of Defendant Frank W. Boykin to dismiss counts 2 through 8 for lack of jurisdiction, filed.

Jan. 12—Supplemental Memorandum of United States of America in opposition to Motion of Defendant Thomas F. Johnson to Dismiss the First Count of the Indictment for Lack of Jurisdiction and Appendix A and B, filed.

Feb. 8—Supplemental Memorandum of Defendant Frank W. Boykin in Support of Motion to Dismiss Counts 2 through 8 for Lack of Jurisdiction, filed.

Feb. 13—Argument of counsel on Motions of Defendants continued from Friday, February 1, 1963.

Feb. 13—Argued and held sub-curia.

Feb. 25—Supplemental Memorandum of Defendant Frank W. Boykin on Legislative Background, filed.

Feb. 27—Subpoenaes (45) on behalf of United States issued.

Feb. 28—Subpoena on behalf of United States issued.

Feb. 28—Opinion of the Court (Thomsen, C. J.) filed.

Mar. 8—Motion of Thomas F. Johnson for Reconsideration by the Court of its Decision denying the Production of his Grand Jury Testimony, filed.

Mar. 14—Subpoenaes (2) on behalf of the United States issued.

Mar. 19—Subpoenaes (2) on behalf of United States issued.

Mar. 20—Subpoena on behalf of United States issued.

Mar. 21—Subpoenaes (3) on behalf of United States issued.

Mar. 25—Voir Dire on behalf of the Government, filed.

Mar. 25—Voir Dire on behalf of Defendant Frank W. Boykin, filed.

Mar. 25—Voir Dire on behalf of Defendant Thomas F. Johnson, filed.

Mar. 25—Jurors examined on Voir Dire, not concluded.

Mar. 26—Examination of Jurors on Voir Dire resumed.

Mar. 26—Jury empannelled and sworn as to each Defendant before Thomsen, C. J.

Mar. 26—Subpoenaes (2) on behalf of United States, issued.

Mar. 28—Subpoenaes on behalf of the United States issued.

Mar. 28—Memorandum in Support of Government's Request for use of Montgomery County, Maryland Grand Jury Transcripts of Testimony of Thomas F. Johnson, and Frank W. Boykin, filed.

Mar. 28—Hearing on Oral Motion of the United States Attorney that the Sealed Transcript of the Testimony of the Defendant Thomas F. Johnson before the Grand Jury for Montgomery County, Maryland, be released to the Government, before Thomsen, C. J.

Mar. 28—Answer of Defendant Thomas F. Johnson to the verbal Motion of the United States Attorney that the sealed transcript of the testimony of the Defendant Thomas F. Johnson before the Grand Jury for Montgomery County, Md., be released to the Government, filed.

Mar. 28—Oral Opinion rendered by the Court directing that the Montgomery County Grand Jury Testimony be made available upon conditions more fully set forth orally from the Bench.

Mar. 29—Further hearing on various Motions before the Court (Thomsen, C. J.) Re Montgomery County Grand Jury Testimony, on which the Court ruled at the Bench.

Mar. 29—Memorandum in Support of Government's Request for Use of Montgomery County, Maryland Grand Jury Transcripts of Testimony of Thomas F. Johnson and Frank W. Boykin, filed.

Mar. 29—Opinion of the Court (Thomsen, C. J.) filed.

Mar. 29—Subpoena on behalf of United States issued.

Apr. 1—Hearing on various Motions before the Court (Thomsen, C. J.) on which the Court ruled at the Bench.

Apr. 1—Case trial begun before the Court (Thomsen, C. J.) and Jury.

Apr. 1—Not concluded.

Apr. 2—Subpoena on behalf of United States of America issued.

Apr. 2—Trial of case resumed, not concluded.

Apr. 3—Case continued—not concluded.

Apr. 4—Case continued—not concluded.

Apr. 8—Subpoenaes (3) on behalf of the United States of America issued.

Apr. 8—Case continued—not concluded.

Apr. 9—Subpoena duces tecum on behalf of the United States of America issued.

Apr. 9—Case continued—not concluded.

Apr. 10—Case continued—not concluded.

Apr. 11—Case continued—not concluded.

Apr. 15—Case continued—not concluded.

Apr. 15—Subpoena on behalf of the United States of America issued.

Apr. 16—Subpoena on behalf of the United States of America issued.

Apr. 17—Case continued—not concluded.

Apr. 18—Case continued—not concluded.

Apr. 18—Subpoena on behalf of the United States issued.

Apr. 18—Stipulation between the parties re: Authenticity requisition orders for speech delivered by Defendant Thomas F. Johnson, and attachments thereto, filed.

Apr. 22—Case continued—not concluded.

Apr. 23—Case continued—not concluded.

Apr. 23—Subpoena on behalf of United States of America issued.

Apr. 24—Motion of the Defendant Thomas F. Johnson for "Judgment of Acquittal" as to the 1st Count (the conspiracy charge) and with respect to the substantive counts, filed.

Apr. 24—Oral Motions of each of the Defendants Frank W. Boykin, J. Kenneth Edlin and William L. Robinson, for a "Judgment of Acquittal" as to the 1st Count of the Indictment, and with respect to the substantive counts, made at the close of the Government's evidence-in-chief.

Apr. 24—Hearing on Motions of each of the Defendants Thomas F. Johnson, Frank W. Boykin, J. Kenneth Edlin and William L. Robinson for Judgment of Acquittal as to the 1st count (the conspiracy charge) and with respect to the substantive counts.

Apr. 24—Argument of counsel concluded as to Motions of Defendants for Judgment of Acquittal as to each of substantive counts. Argument to be resumed as to Motions of Defendants for Judgment of Acquittal as to the 1st Count (The conspiracy charge).

Apr. 25—Argument of counsel on Motions of Defendants for Judgment of Acquittal as to the 1st Count (the conspiracy charge) continued.

Apr. 25—Motions of Defendants for Judgment of Acquittal as to each of the substantive counts and as to

the 1st Count (The conspiracy Charge) "denied" without prejudice in Open Court.

Apr. 29—Trial of case continued—not concluded.

Apr. 30—Case continued—not concluded.

May 1—Case continued—not concluded.

May 2—Case continued—not concluded.

May 6—Case continued—not concluded.

May 13—Case continued—not concluded.

May 14—Case continued—not concluded.

May 14—Hearing on Oral Motion of the Defendant Thomas F. Johnson to Supress testimony taken before the Grand Jury, before Thomsen, C. J.

May 14—Testimony not concluded to be resumed.

May 15—Hearing on Oral Motion of the Defendant Thomas F. Johnson to Suppress testimony taken before the Grand Jury continued from May 15, 1963.

May 15—Oral Opinion of the Court "Overruling" Motion of the Defendant Thomas F. Johnson to Suppress Grand Jury Testimony for reasons more fully set forth orally from the Bench.

May 15—Trial of case resumed from Tuesday, May 14, 1963. Case continued—not concluded.

May 20—Case continued—not concluded.

May 21—Case continued—not concluded.

May 22—Renewed Oral Motion of Defendant J. Kenneth Edlin for Mis-Trial, "overruled" by the Court.

May 22—Case continued—not concluded.

May 23—Case continued—not concluded.

May 27—Case continued—not concluded.

May 28—Case continued—not concluded.

May 29—Case continued—not concluded.

June 3—Case continued—not concluded.

June 3—Subpoenaes (3) on behalf of the United States, issued.

June 4—Case continued—not concluded.

June 5—Subpoena on behalf of the United States issued.

June 5—Case continued—not concluded.

June 6—Case continued—not concluded.

June 10—Case continued—not concluded.

June 11—Renewed Oral Motion of Defendant Frank W. Boykin for Judgment of Acquittal as to the 1st Count of the Indictment (the Conspiracy Charge) and with respect to each of the substantive counts, made at the close of all the evidence. Motion "Denied" by the Court.

June 11—Renewed Oral Motion of Defendant J. Kenneth Edlin for Judgment of Acquittal as to the 1st Count (The Conspiracy Charge) of the Indictment and with respect to each of the Substantive Counts, made at the close of all the evidence. Motion "denied" by the Court.

June 11—Renewed Oral Motion of Defendant William L. Robinson for Dismissal and for Judgment of Acquittal as to the 1st Count (the Conspiracy Charge) of the Indictment and with respect to each of the Substantive Counts, made at the close of all the evidence. Motion "denied" by the Court.

June 11—(82) Motion of the Defendant Thomas F. Johnson, for a Judgment of Acquittal Under the First Count (The Conspiracy Charge) of the Indictment, and with respect to each of the Substantive Counts filed at the close of all the evidence, filed.

June 11—(83) Order of Court (Thomsen, C. J.) "denying" Motion of the Defdt. Thomas F. Johnson for a Judgment of Acquittal under the First Count (the Con-

spiracy Charge) of the Indictment, and with respect to each of the substantive counts, filed. (See Pleading No. 82.)

June 11—(84) Motions of the Defendant Thomas F. Johnson to strike Government Exhibit No. 6, and to strike testimony of FBI Special Agents Robert Milne and Strickland, as to verbal statements made to them & etc., filed.

June 11—(85) Order of Court (Thomsen, C. J.) "granting" Motion of the Defendant Thomas F. Johnson to Strike Government Exhibit No. 6, and "denying" Motion of the Defendant Thomas F. Johnson to strike testimony of Special Agents Robert Milne and Strickland, fd. (See Pleading No. 84.)

June 11—Argument of counsel—not concluded.

June 12—Argument of counsel resumed—not concluded.

June 13—Argument of counsel concluded.

June 13—(86) Government's (8) Prayers, filed.

June 13—(87) Defendant Thomas F. Johnson's Prayers, filed.

June 13—(88) Defendant Frank W. Boykin's (21) Prayers, filed.

June 13—(89) Defendant J. Kenneth Edlin's (33) Prayers, filed.

June 13—Court's Charge-to-the Jury.

June 13—Bailiffs (Joseph Schildt and Timothy Gavin) sworn.

June 13—Verdict as to Defendant Thomas F. Johnson: "Guilty" as to each of Counts Nos. 1 to 8 inclusive.

June 13—Verdict as to Defendant Frank W. Boykin: "Guilty" as to each of Counts Nos. 1 to 8 inclusive.

June 13—Verdict as to Defendant J. Kenneth Edlin: "Guilty" as to each of Counts Nos. 1 to 8 inclusive.

June 13—Verdict as to Defendant William L. Robinson: "Guilty" as to each of Counts Nos. 1 to 8 inclusive.

June 13—Imposition of sentence as to each of Defendants Thomas F. Johnson, Frank W. Boykin, J. Kenneth Edlin and William L. Robinson postponed pending filing of Motions for New Trial.—Time for filing Motion for New Trial and Judgment N.O.V. extended to July 10, 1963.

July 10—(90) Motion of Defendant, Frank W. Boykin for Judgment of Acquittal Notwithstanding the verdict or, in the alternative, for a New Trial, and Memorandum in support thereof, filed.

July 10—(91) Motion of Defendant, J. Kenneth Edlin, for New Trial and/or Motion in Arrest of Judgment, and/or Motion for Judgment of Acquittal Notwithstanding the Verdict; Points and Authorities in support thereof, filed.

July 10—(92) Motion of Defendant, Thomas F. Johnson, for a Judgment of Acquittal, Notwithstanding the Verdicts and, in the alternative, Motion for New Trial, and Affidavit, filed.

July 15—(93) Motion of Defendant, William L. Robinson for Judgment of Acquittal Notwithstanding the Verdict or, in the alternative, for a New Trial, and Memorandum in support thereof, filed.

July 26—(94) Memorandum of the United States of America in Opposition to Motions of all Defendants for Judgment of Acquittal, N.O.V., or in the alternative, for a New Trial, filed.

Aug. 5—Hearing on Motions of the Defendants Thomas F. Johnson, Frank W. Boykin, J. Kenneth Edlin and William L. Robinson for Judgment N.O.V. or in the alternative for a new trial, before Thomsen, C. J.

Aug. 5—Oral Opinion rendered by the Court (Thomsen, C. J.) "overruling" Motions of Defendants for Judgment N.O.V. or in the alternative for a New Trial.

Aug. 5—(95) Order of Court (Thomsen, C. J.) "overruling" Motion of the Defendant Frank W. Boykin for Judgment of Acquittal N.O.V. or in the alternative for a new trial, filed. (See Paper No. 90.)

Aug. 5—(96) Order of Court (Thomsen, C. J.) "overruling" Motion of the Defendant J. Kenneth Edlin for Judgment of Acquittal N.O.V. and or to arrest Judgment and to grant a new trial, filed. (See Paper No. 9.)

Aug. 5—(97) Order of Court (Thomsen, C. J.) "overruling" Motion of the Defendant Thomas F. Johnson for a Judgment of Acquittal N.O.V. and in the Alternative for a new trial, filed. (See Paper No. 92) p. 13.

Aug. 5—(98) Order of Court (Thomsen, C. J.) "overruling" Motion of the Defendant William L. Robinson for Judgment of Acquittal N.O.V. or in the Alternative for a New Trial, filed. (See paper No. 93.)

Aug. 16—(99) Opinion of the Court (Thomsen, C. J.) Re: "Denial of all Motions," fd.

Oct. 7—(100) Waiver of Defdt. Frank W. Boykin, to be present at the imposition of sentence, and to make any statement in his own behalf and present any information in mitigation of punishment, Consent of United States Attorney thereon and Affidavit, filed.

Oct. 7—(101) Opinion of Court Thomsen, C. J. Re: Waiver of Defendant of his right to be present at imposition of sentence under Rules 43 and 32(a), fd.

Oct. 7—(102) Judgment as to Defendant Thomas F. Johnson: That the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Months and that the defendant pay a fine of Five Thousand Dollars ($5,000.00), without commitment in default of payment of said fine, as to Count No. 1; that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Months as to each of Counts Nos.

2, 3, 4, 5, 6, 7 and 8; said terms of imprisonment to run concurrently, making a total term of imprisonment of Six (6) Months as to Counts Nos. 2, 3, 4, 5, 6, 7 and 8. Term of imprisonment imposed as to Count No. 1 to run concurrently with term of imprisonment imposed as to Counts Nos. 2 through 8 inclusive, making a total term of imprisonment of Six (6) Months and defendant to pay ¼ costs of case. Service of sentence to begin on November 4, 1963 at ten o'clock A.M., Order (Thomsen, C. J.), filed.

Oct. 7—(103) Judgment as to Defendant Frank W. Boykin: That the defendant pay a fine of Five Thousand Dollars ($5,000.00) on each of Counts Nos. 1 to 8 inclusive; said fines to be cumulative, making a total fine of Forty Thousand Dollars ($40,000.00) and Defendant to pay ¼ costs of case. Imposition of sentence as to imprisonment suspended and defendant released on probation for the period of Six (6) Months, upon condition that the fines be paid within three (3) Months, Order (Thomsen, C. J.), filed.

Oct. 7—(104) Judgment as to Defendant J. Kenneth Edlin: That the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of One (1) Year as to each of Counts Nos. 1 to 8 inclusive, said terms of imprisonment to run concurrently making a total term of imprisonment of One (1) Year; defendant to become eligible for parole at such time as the Board of Parole may determine, pursuant to U. S. C., Title 18, Section 4208(a)(2); and Defendant to pay a fine of Two Thousand Dollars ($2,000.00) as to each of Counts Nos. 1 to 8 inclusive, said fines to be cumulative making a total fine of Sixteen Thousand Dollars ($16,000.00), without commitment in default of payment of said fine and defendant to pay ¼ costs of case. Service of sentence to begin on November 4, 1963 at 10:00 o'clock A.M., Order (Thomsen, C. J.), filed.

Oct. 7—(105) Judgment as to Defendant William L. Robinson: That the Defendant is hereby committed to the

custody of the Attorney General or his authorized representative for imprisonment for a period of Six (6) Months as to each of Counts Nos. 1 to 8 inclusive; said terms of imprisonment to run concurrently, making a total term of imprisonment of Six (6) Months and Defendant to pay ¼ costs of case. Service of sentence to begin on November 4, 1963 at 10:00 o'clock A.M., Order (Thomsen, C. J.), filed.

Oct. 14—(106) Petition of Defendant, William L. Robinson, Affidavit and Order (Thomsen, C. J.) authorizing Petitioner to file Notice of Appeal and to proceed on appeal in forma pauperis, filed.

Oct. 14—(107) Notice of Appeal of Defendant, William L. Robinson, filed. (Service admitted by U. S. Attorney.)

Oct. 15—(108) Notice of Appeal of Defendant, Thomas F. Johnson, filed. (Service admitted by U. S. Attorney.)

Oct. 16—(109) Notice of Appeal of Defendant J. Kenneth Edlin, filed. (Service admitted by U. S. Attorney.)

Oct. 17—Statement of Docket Entries and an attested William L. Robinson and Attested copies of Petition of Defendant, Affidavit, Order of Court authorizing Petitioner to file Notice of Appeal, etc., and Notice of Appeal, transmitted to Clerk, United States Court of Appeals, Fourth Circuit, Richmond 19, Virginia.

Oct. 17—Statement of Docket Entries as to Defendant copy of the Notice of Appeal, as to Defendant Thomas F. Johnson, transmitted to Clerk, United States Court of Appeals, Fourth Circuit, Richmond 19, Virginia.

Oct. 17—Statement of Docket Entries and an attested copy of the Notice of Appeal, as to Defendant J. Kenneth Edlin, transmitted to Clerk, United States Court of Appeals, Fourth Circuit, Richmond 19, Virginia.

Oct. 17—(110) Election of Defendant, Thomas F. Johnson, not to commence service of sentence, filed.

Oct. 25—(111) Designation of Defendant William L. Robinson as to contents of Record on Appeal, filed.

Oct. 25—(112) Designation of Defendant Thomas F. Johnson as to contents of Record on Appeal, filed.

Oct. 28—(113) Designation of Defendant J. Kenneth Edlin as to contents of Record on Appeal, filed.

Oct. 31—(114) Recognizance pending appeal as to Defendant J. Kenneth Edlin, filed.

Oct. 31—(115) Recognizance pending appeal as to Defendant Thomas F. Johnson, filed.

Nov. 6—(116) Recognizance of Defendant William L. Robinson on appeal, filed.

Nov. 19—(117) Motion of Defendants, Thomas F. Johnson, J. Kenneth Edlin and William L. Robinson and Order (Watkins, J.) that the time for transmitting the record on appeal be extended until December 13, 1963, filed.

Dec. 6—(118) Transcript of Proceedings before the Court (Thomsen, C. J.) on January 25, 1963; February 1, 1963; April 1, 2, 3, 4, 8, 9, 10, 11, 15, 16, 17, 18, 22, 23, 24, 25, 29, 30, 1963; May 1, 2, 6, 13, 14, 15, 20, 21, 22, 23, 27, 28, 29, 1963; June 3, 4, 5, 6, 10, 11, 12, 13, 1963 and December 7, 1963, filed. (Filed separately.)

Dec. 10—(119) Motion of Defendant, Edlin and Order (Watkins, J.) that the time for filing the record on appeal in the Court of Appeals for the Fourth Circuit is hereby extended to and including December 24, 1963, filed.

Dec. 20—(120) Petition of Harry B. Wolf, Jr., Director of the State Department of Building, Savings and Loan Associations, by Doris P. Scott, Esq., Affidavit and Order (Thomsen, C. J.) consented to, authorizing and directing the Clerk to deliver unto Petitioner certain Government's Exhibits as therein more particularly set forth, &c, filed.

PRE-TRIAL OPINION

THOMSEN, Chief Judge

Defendants in this eight-count indictment found by the Grand Jury for the District of Maryland are: Thomas F. Johnson and Frank W. Boykin, who at all times mentioned in the indictment were Members of the House of Representatives of the United States from Maryland and Alabama respectively; J. Kenneth Edlin, who is alleged to have dominated and controlled certain savings and loan associations and land companies, which are named as co-conspirators but not indicted; and William L. Robinson, a lawyer, who is alleged to have been a director and officer of those associations and companies.[1]

The First Count charges a conspiracy, in violation of 18 U.S.C.A. 371,[2] among defendants and others "to defraud the United States of and concerning its governmental functions and rights", in specified particulars summarized below under the heading "The Indictment". Each of the seven other counts charges that, in violation of 18 U.S.C.A. 281 and 2,[3] Johnson, acting in concert with and aided and

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[1] Boykin is alleged to have dominated and controlled a co-conspirator, Tensaw Land and Timber Company.

[2] "§ 371. *Conspiracy to commit offense or to defraud United States*

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both.

"* * *"

[3] "§ 281. *Compensation to Members of Congress, officers, and others in matters affecting the Government*

"Whoever, being a Member of or Delegate to Congress, or a Resident Commissioner, either before or after he has qualified, or the head of a department, or other officer or employee of the United States or any department or agency thereof, directly or indirectly receives or agrees to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party or directly or indirectly interested, before any department, agency, court martial, officer, or any civil, military, or naval commission, shall be fined not more than $10,000 or imprisoned not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

"* * *"

See also 1962 Pocket Part, 18 U.S.C.A. 281.

abetted by the other defendants, directly or indirectly received compensation from Edlin and Robinson for services rendered and to be rendered by Johnson before the Department of Justice in relation to a charge, accusation and indictment against Edlin et al.

Each defendant has filed a number of motions, or adopted those filed by other defendants; they will be discussed under the following headings:

I. Motions to Dismiss the First Count

A. Jurisdiction—Art. 1, sec. 6, cl. 1 of the Constitution

B. Duplicity

C. Vagueness—Improper Use of Charge of Conspiracy to Defraud the United States.

II. Motions to Dismiss the Substantive Counts (Second to Eighth)

A. Venue

B. Claimed Failure to Charge an Offense Against the United States

C. Payor as Aider and Abettor

III. Motions for Discovery

A. Grand Jury Testimony

B. Other

The Indictment

1. The First Count, the conspiracy count, after identifying defendants and their alleged co-conspirators and referring to an indictment against Edlin et al. in the District of Maryland, charges in paragraph 14 that from on or about April 1, 1960, and continuously thereafter until on or about December 31, 1961, defendants and their co-conspirators

conspired in Maryland and elsewhere to defraud the United States "of and concerning its governmental functions and rights", described in four sub-paragraphs as: (a) its right to have the business of the Department of Justice conducted free from improper and undue influence; (b) its right to have the personnel of that Department free to transact its official business unhindered by the exercise upon them of corrupt, unlawful, improper and undue pressure and influence; (c) its right to have the duties of Johnson and Boykin in their official capacities as Members of the House performed free from corruption resulting from their personal and pecuniary interest in the success of Edlin et al. in attempting to persuade the Department of Justice to cause the postponement of the trial and the eventual dismissal of the indictment against Edlin et al; and (d) its right not to be deprived of the faithful services of Johnson and Boykin in their official capacities as Members of the House uninfluenced by corruption and by payments of money and other valuable considerations to them by the other defendants and co-conspirators as compensation for services rendered and to be rendered by Johnson in behalf of the other defendants and co-conspirators in relation to matters pending in the House, and for services rendered and to be rendered by Johnson and Boykin before the Department of Justice in relation to proceedings, charges and accusations in which the United States is a party and directly interested.

The First Count then sets out in paragraphs 15 to 25 that it was a part of the conspiracy: (para. 15) that Johnson should, at the request of Edlin and Robinson, render services for compensation to them and their co-conspirators, namely, the making of a speech on the floor of the House defending "the operations of Maryland's 'independent' savings and loan associations, the financial stability and solvency thereof, and the reliability and integrity of the 'commercial insurance' on investments made by said 'independent' savings and loan associations, on the floor of the House of Representatives"; (para. 16) that Johnson,

Edlin and Robinson would cause to be reprinted 50,000 copies of said speech for distribution to prospective depositors in the aforesaid savings and loan associations, to members of the General Assembly of Maryland, and to others; and (paras. 17-25) that Johnson and Boykin should at the request of the other defendants and their co-conspirators render specified services for compensation in relation to the aforesaid indictment, bringing the prestige, weight and influence of their official position to bear upon the officials of the Department of Justice to obtain decisions and actions beneficial to defendants and their co-conspirators, particularly the postponement of the trial and the eventual dismissal of the indictment.

Seventy-five overt acts to effect the objects of the alleged conspiracy are specified. Reference is made to 18 U.S.C.A. 371.

2. The Second Count charges that on or about April 3, 1961, in the District of Maryland, Johnson, being then a Member of Congress, acting jointly and in concert with and aided and abetted by the other defendants, **unlawfully,** wilfully and corruptly received, directly or indirectly, from Edlin and Robinson, compensation in the amount of $800.00, to wit, the proceeds of a bank check drawn by Robinson on a certain bank in Miami, Florida, which was "deposited in, credited to and final payment in the sum of $800.00 made thereon to the account of" Johnson at the Exchange and Savings Bank, Berlin, Maryland, the date and place of the receipt of said check by Johnson being to the Grand Jurors unknown, for services rendered and to be rendered by Johnson before the Department of Justice in relation to the proceeding, charge and accusation referred to in the First Count. Reference is made to 18 U.S.C.A. 281 and 2.

3, 4, 5, 6. The Third, Fourth, Fifth and Sixth Counts are similar to the Second Count except for dates and amounts and the allegation that the checks referred to in those four counts were drawn by one of the alleged

co-conspirators on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland.

7, 8. The Seventh and Eighth Counts are similar to the Second Count except for dates and amounts of the checks.

I.

Motions to Dismiss the First Count

A.

JURISDICTION—ART. 1, SEC. 6, CL. 1 OF THE CONSTITUTION

Johnson, Edlin and Robinson have moved[4] to dismiss the First Count for lack of jurisdiction on the ground that the prosecution of the offense charged therein is barred by Art. 1, Sec. 6, Cl. 1 of the Constitution, which provides:

> "The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States. They shall in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses and going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place."

Defendants do not cite any authority which holds that the quoted clause bars the prosecution of a Member of Congress for accepting money for making a speech on the floor of the House of which he is a member, nor for participating in a conspiracy of which that is an incident. They rely on the doctrine of the separation of powers, on the importance thereto of the privilege granted by the clause, and on the statements contained in opinions dealing with civil actions rather than criminal prosecutions. The importance of the doctrine and of the privilege is universally recognized. The question here, however, is the scope of the prohibition contained in the clause.

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[4] Boykin has not filed a similar motion.

The historical background of the clause is reviewed at length in *Kilbourn v. Thompson,* 103 U.S. 168, 201 et seq., and in *Tenney v. Brandhove,* 341 U.S. 367; that discussion need not be repeated here.

Both of those cases were civil actions, one for false arrest and the other for deprivation of civil rights. They hold that the clause should be liberally construed to cover voting and other official action by legislators, as well as speeches and debates. Other cases hold that the question whether a matter is before the House should also be liberally construed. See, e.g., *Cochran v. Couzens,* D.C. Cir., 42 F.2d 783; *Barsky v. United States,* D.C. Cir., 167 F.2d 241. Defendants rely heavily on the following passage in *Coffin v. Coffin,* 4 Mass. 1 (a civil action for slander), construing the Massachusetts Constitution: "These privileges are thus secured not with the intention of protecting the members against prosecutions for their own benefit, but to support the rights of the people, by enabling their representatives to execute the functions of their office without fear of prosecutions, civil or criminal. I therefore think that the article ought not to be construed strictly but liberally, that the full design of it may be answered. I will not confine it to delivering an opinion, uttering a speech, or haranguing in debate, but will extend it to the giving of a vote, to the making of a written report and to every other act resulting from the nature and in the execution of the office. And I will define the article as securing to every member exemption from prosecution for everything said or done by him as a representative in the exercise of the functions of that office. * * *"

That passage from *Coffin* was quoted with approval in *Kilbourn,* 103 U.S. at 204. It should be noted, however, that the opinion in *Kilbourn* went on to say: "It is not necessary to decide here that there may not be things done, in the one House or the other, of an extraordinary character, for which the members who take part in the act may be held legally responsible." 103 U.S. at 204. The

caveat was reiterated by the Supreme Court in *Tenney*, 341 U.S. at 378-89.

Without question, the clause should be liberally construed to accomplish its purpose—the freedom of legislators from fear of prosecutions, whether civil or criminal, for words spoken, or votes cast, or actions taken in the pursuit of their lawful functions. But neither the statutes, the decisions, nor the text writers suggest that the purpose of the clause would be aided by a construction which would shield a legislator from prosecution for bribery or from prosecution for a conspiracy of the nature charged herein.

Congress has repeatedly enacted statutes providing for criminal prosecution in the courts of a Member of Congress for bribery and graft, including the taking of money for his action, vote or decision. See 18 U.S.C.A., 1950 ed., sec. 201 et seq., especially sec. 205 and sec. 281. See also 1962 supp., sec. 201 et seq., especially sec. 203. The debates in Congress when the first of such acts was adopted—unanimously—do not show that anyone questioned its constitutionality.[5] Nor does it appear that any question of constitutionality was raised when Congress adopted the statute which was in effect in 1961 or the present statutes which were adopted in 1962.

The Supreme Court pointed out in *Tenney*, 341 U.S. at 375, n. 5, that provisions generally similar to Art. 1, sec. 6, cl. 1 of the United States Constitution appear in the constitutions of most of the states. Practically all of those states also have statutes making the acceptance by legislators of compensation from private individuals a criminal offense.[6] It does not appear that any prosecution under

[5] Cong. Globe, 37 Cong., 2d Sess., pp. 3260, 3261, 3262 (1862). See also 8 Cong. Deb. 2511 et seq. (1832) dealing with the assault by General Sam Houston on a fellow Member of Congress.

[6] See Ala. Code ch. 21, sec. 72 (1958), Ala. Code ch. 21, sec. 64 (1958); Ariz. Rev. State Ann., ch. 2, secs. 13-286 (1956); Ark. Stat. Ann. ch. 9, secs. 41-901 (1947); Colo. Rev. Stat. Ann. art. 7, sec. 40-7-5 (1953), Colo. Rev. Stat. Ann. art. 7, sec. 40-7-7 (1953); Conn. Gen. Stat. Ann. ch. 942, secs. 53-149 (1960); Ga. Code Ann. ch. 26-41, secs. 26-4102 (1953), Ga. Code Ann. ch. 26-50, secs. 26-5023 (Cum. Supp. 1961), Ga. Code Ann. ch. 26-42, secs. 26-4203 (1953), Ga. Code Ann. ch. 26-42

any of those statutes has ever been held to violate the constitutional privilege. Indeed, it does not appear that the question has ever been raised. See *People v. Logie,* 321 Mich. 303, 32 N.W.2d 458; *People v. Hammond,* 132 Mich. 422, 93 N.W. 1084; *State v. Burns,* 238 Mo. App. 220, 177 S.W.2d 909; *State v. Sullivan,* 110 Mo. App. 75, 84 S.W. 105. See also *Hemans v. United States,* 6 Cir., 163 F.2d 228.

Leading text writers also indicate that the purpose of the provisions is to prevent the prosecution of any action, civil or criminal, for words spoken, for libel or slander, and historically for treason or sedition.[7] No authority has been cited or found which suggests that the clause was intended to bar criminal prosecutions based on the acceptance of money for speeches, votes or other legislative acts.

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secs. 26-4201 (1953); Idaho Code ch. 47, secs. 18-4704 (1947); Ill. Stat. Ann. ch. 38, secs. 38-78 (1935), Ill. Stat. Ann. ch. 38, secs. 38-79 (1935); Ind. Stat. Ann. ch. 6, sec. 10-601 (1956); Kan. Gen. Stat. Ann. ch. 21, sec. 21-825 (1949); Ky. Stat. Rev. ch. 432, sec. 432.350 (1955); La. Stat. Rev. ch. 1, sec. 14.118 (1951); Me. Stat. Rev. ch. 135, sec. 5 (1954); Md. Code Ann. art. 27, sec. 23 (1957); Mass. Laws Ann. ch. 268, sec. 8 (1956); Mich. Stat. Ann. ch. 286a, sec. 28.313 (1938); Minn. Stat. Ann. ch. 613, sec. 613.05 (1947), Minn. Stat. Ann. ch. 613, sec. 613.06 (1947); Mo. Stat. Ann. ch. 558, sec. 558.020 (1953); Mont. Rev. Code ch. 29, sec. 94-2906 (1947); Neb. Stat. Rev. ch. 28, sec. 28-706 (1943); N.H. Stat. Rev. Ann. ch. 587, sec. 587.26 (1955), N.H. Stat. Rev. Ann. ch. 587, sec. 587.27 (1955); N.J. Stat. Ann. ch. 93, sec. 2A: 93-2 (1939); N.M. Stat. Ann. art. 8, sec 40-8-1 (1953), N.M. Stat. Ann. art. 8, sec. 40-8-3 (1953); N.Y. Penal Code, sec. 1328; N.D. Code Ann. ch. 12-09, sec. 12-09-09; Ohio Rev. Code Ann. ch. 2917, sec. 2917.01 (1953); Okla. Stat. Ann. ch. 7, sec. 309 (1951); Ore. Stat. Rev. ch. 162, sec. 162.230 (1959); Pa. Stat. Ann. tit. 18, art. 3, sec. 4303 (1939); R.I. Gen. Laws ch. 7, sec. 11-7-3 (1956); S.D. Code ch. 1310, sec. 13.1009 (1939); Tenn. Code Ann. ch. 8, sec. 39-802 (1955); Tex. Penal Code art. 159 (1925); Utah Code Ann. art. 2, sec. 76-28-18 (1953); Vt. Stat. Ann. tit. 13, ch. 21, sec. 1102 (1958); Va. Code ch. 6, art. 2, sec. 18.1-279 (1950); Wash. Rev. Code Ann. ch. 9.18, sec. 9.18.020; W. Va. Code art. 5, sec. 6003 (1961); Wis. Stat Ann. ch. 946, sec. 946.10 (1957); Wyo. Stat. ch. 8, sec. 6-156 (1957). Arkansas, Maryland, Pennsylvania and Texas have provisions in their Constitutions making acceptance by a public official of compensation to influence him in his official capacity a criminal offense. See Ark. Const. Art. V, sec. 35; Md. Const. Art. III, sec. 50; Pa. Const. Art. 3, sec. 29; and Tex. Const. Art. 16, sec. 41.

[7] 2 Cooley, *Constitutional Limitations,* p. 929 (8th ed. 1927); 1 Tucker, *Constitution,* sec. 207 (1899); 1 Willoughby, *Constitution of the United States,* sec. 342 (2d ed. 1929).

It appears from the foregoing discussion that the prosecution of a Member of Congress for receiving money from a private person for making a speech on the floor of the House would not be barred by Art. 1, sec. 6, cl. 1 of the Constitution. *A fortiori,* the prosecution of the offense charged in Count One of the present indictment is not barred. The making of the speech was but an incident of the conspiracy charged, which is alleged to have included the reprinting by Johnson, Edlin and Robinson of 50,000 copies of the speech for distribution to prospective depositors in the two savings and loan associations named as co-conspirators, among others, as well as various actions by the alleged conspirators in connection with the indictment pending against Edlin, et al. To hold Count One of the present indictment barred by the privilege would subvert rather than advance the purpose for which the privilege exists—the independence of the legislator in the fulfillment of his public trust. II James Wilson's Works 156 (1804); *Hemans,* 163 F.2d at 234; *United States v. Glasser,* 7 Cir., 116 F.2d 690, 696, 315 U.S. 60, 66; *United States v. Manton,* 2 Cir., 107 F.2d 834, 839.

The motions to dismiss Count 1 for lack of jurisdiction are hereby denied.

B.

DUPLICITY

Defendants' motions to dismiss the First Count for duplicity are without merit. They admit that one conspiracy may have two or more objects, but they contend that the First Count charges two conspiracies, one involving the preparation, making and distribution of a speech before the House of Representatives and one involving the services of Johnson before the Department of Justice in connection with the indictment against Edlin et al. The Court does not so construe the First Count. It charges a single conspiracy to defraud the United States of and concerning its governmental functions and rights which are set out in subparagraphs (a), (b), (c) and (d) of

paragraph 14, and charges that the conspiracy had various objects or parts, which, together with the means used to accomplish them, are set out in paragraphs 15 to 25 of Count One. The parts or objects of the conspiracy so charged all deal with the general subject of Edlin's connection with two savings and loan associations operating in Maryland named as co-conspirators herein, with the commercial insurance of the investments of such associations, and with the indictment against Edlin and others on charges arising out of the operation of the two associations. All of the services alleged to have been rendered by Johnson, both in his speech and in his dealings with the Department of Justice, were in connection with these matters.

What was said in *May v. United States*, D.C. Cir., 175 F.2d 944, 1002, applies here.[8] See also *Pinkerton v. United States*, 328 U.S. 640; *Frohwerk v. United States*, 249 U.S. 204, 210; *Travis v. United States*, 10 Cir., 247 F.2d 130; *United States v. Lennon*, 2 Cir., 246 F.2d 24, cert. den. 355 U.S. 836; *United States v. Manton*, 2 Cir., 107 F.2d 835.

If the evidence fails to sustain the charge of a single conspiracy, the point can be raised by an appropriate motion. *Kotteakos v. United States*, 328 U.S. 750; *Berger v. United States*, 295 U.S. 78.

C.

VAGUENESS—IMPROPER USE OF CHARGE OF CONSPIRACY TO DEFRAUD THE UNITED STATES

Johnson has moved to dismiss the First Count on the ground that it violates the Fifth and Sixth Amendments to the Constitution by depriving him of his right to be informed of the nature and cause of the accusation, by

[8] The basis for the dissent by Judge Stephens on this point in *May* does not exist in the instant case. Count I of the indictment in *May* charged a conspiracy both to violate old sec. 203 and to defraud the United States. The conspiracy charged in the instant case is a conspiracy to defraud the United States; a purpose to violate sec. 281 is not charged as part of the conspiracy.

charging him with participation in a conspiracy, the purpose of which are so vague, general and indefinite that he is not apprised of the offense charged, is unable to prepare his defense, and may not be able to plead former jeopardy in the event of a second prosecution. He further contends that a count charging the second alternative of sec. 371[9]—a conspiracy to defraud the United States—may not be used when the acts charged amount to substantive offenses in violation of other statutes.

Counsel for Johnson first refers to the criticism which the Supreme Court and other federal courts have leveled at the indiscriminate use of conspiracy indictments. See, e.g., *Kotteakos v. United States,* 328 U.S. 772; *Krulewitch v. United States,* 336 U.S. 440; *Grunewald v. United States,* 353 U.S. 391; *United States v. Falcone,* 2 Cir., 109 F.2d 579. This Court is aware of that criticism, and is also aware that the Supreme Court has not forbidden the use of such an indictment in a proper case. Under the authorities cited to support this Court's conclusion on the various points discussed herein, the inclusion of the conspiracy count in the present indictment was not improper.

Counsel then argues that the original of sec. 371, which proscribes conspiracies "either to commit any offense against the United States or to defraud the United States, or any agency thereof in any manner or for any purpose", was passed shortly after the Civil War primarily to deal with tax violations. He criticizes the federal judiciary for broadening the classes of cases to which the statute has been held applicable; see *Haas v. Henkel,* 216 U.S. 462, 476-481, *Hammerschmidt v. United States,* 265 U.S. 182, and numerous cases in the inferior federal courts, such as *United States v. Manton,* 2 Cir., 107 F.2d 834, *May v. United States,* D.C. Cir., 175 F.2d 994, and *United States v. Bowles,* D.Me., 183 F. Supp. 237. He says: "Although the effort of the Supreme Court in the *Hammerschmidt* case to restrict the language inadvertently used in *Haas*

[9] See note 2, above.

was commendable, the new definition of 'defrauding' was still too broad." The definition in *Hammerschmidt* of which counsel complains read as follows: "To conspire to defraud the United States means primarily to cheat the Government out of property or money, but it also means to interfere with or obstruct one of its lawful governmental functions by deceit, craft or trickery, or at least by means that are dishonest. It is not necessary that the Government shall be subjected to property or pecuniary loss by the fraud, but only that its legitimate official action and purpose shall be defeated by misrepresentation, chicane or the overreaching of those charged with carrying out the governmental intention." 265 U.S. at 188. This language has been construed in *Manton, May, Bowles,* and other cases to permit the prosecution of counts generally similar to the First Count in the indictment under consideration. Counsel cites an article, 68 Yale L. J. 405, criticizing the use of counts charging a conspiracy to defraud the United States by dishonest means, and suggesting that Congress should repeal or amend the statute. Nevertheless, this Court should follow the law as laid down by the Supreme Court and other federal courts.

The argument that the alleged objects of the conspiracy are so vague, broad and indefinite that they give defendants no adequate notice of the offense charged, misconstrues the nature and objects of the conspiracy. The First Count charges, in paragraph 14, a conspiracy to defraud the United States of and concerning its governmental functions and rights hereinafter described. Subparagraphs (a), (b), (c) and (d), which immediately follow, state the rights referred to.[10] They are not, as Johnson's brief assumes, purposes of the conspiracy. The purposes, parts or objects of the conspiracy are set out in paragraphs 15 to 25 of the First Count, together with the means to be used to accomplish the purposes. Thereafter 75 overt acts are alleged, as having been done and performed in pursuance of and in order to effect the objects of the con-

[10] See summary of those paragraphs under "The Indictment" *supra.*

spiracy. The government has conceded what appears to me required by the allegations of the First Count, that it will not attempt to prove any purposes and objects of the conspiracy except those set out in paragraphs 15 to 25. So construed, as I think it must be, the First Count gives defendants adequate notice of the offense charged, more than sufficient to meet the requirements of the Fifth and Sixth Amendment and of Rule 7(c), F. R. Crim. P., 18 U.S.C.A.

It is true that the First Count does not allege a conspiracy "to cheat the Government out of property or money", and that it does not *in haec verba* allege interference with or obstruction of lawful governmental functions "by deceit, craft or trickery, or at least by means that are dishonest". But it does not follow that the charge fails to meet the test laid down in *Hammerschmidt*. Paragraphs 15 to 25 contain allegations of the means used to defraud the United States of its rights enumerated in subparagraphs (a), (b), (c) and (d) of paragraph 14. This Court believes that the means charged are dishonest means. See discussion of the *Hammerschmidt* rule in *Bowles*, 183 F. Supp. at 245-247, and the discussion under **II. B., below.**

Finally, counsel contends that a charge of a conspiracy to defraud may not be made when the indictment as a whole shows that violations of specific statutes are involved. He contends that such a prosecution must be brought for the violation of the specific statutes or for a conspiracy to violate those statutes under the first alternative of sec. 371. No authority is cited to support this proposition, which is at odds with the prevailing practice, and would unreasonably restrict the preparation of an indictment for conspiracy where repeated violation of several statutes by several persons are incidents of a single broad conspiracy to defraud the United States of its governmental functions and rights. If the government fails to prove the conspiracy charged, defendants will not be without remedy.

* * * * * *

All motions to dismiss the First Count are hereby denied, without prejudice to the rights of defendants to raise similar points by motions at the conclusion of the government's case or at the close of all the evidence.

II.

Motions to Dismiss the Second to Eighth Counts

A.

Venue

Johnson and Boykin have moved to dismiss Counts 2 through 8 of the indictment for lack of venue, on the ground that those Counts fail to allege that any violation of 18 U.S.C.A. 281 occurred within the District of Maryland. Robinson has adopted these motions.

A prosecution under sec 281[11] may be brought only in the District where the Congressman or other officer rendered the services or agreed to render the services, or where he received the compensation or agreed to receive the compensation. In none of the substantive counts is it charged that Johnson rendered any services or agreed to render any services in the District of Maryland, nor is it alleged that Johnson agreed in Maryland to receive any compensation. Accordingly, the jurisdiction of this Court with respect to those counts must rest on a sufficient allegation that Johnson received compensation within the District of Maryland.

Each substantive count (Second through Eighth) charges that in the District of Maryland, Johnson, a duly elected Member of Congress, acting jointly and in concert with, and aided and abetted by the other defendants, unlawfully, wilfully, knowingly and corruptly did receive, directly and indirectly, compensation in a specified amount, to wit, the proceeds of a bank check payable to the order of Johnson and Johnson, which was deposited

[11] Set out in note 3 *supra*.

in, credited to and final payment made thereon to the account of the said Thomas F. Johnson at the Exchange and Savings Bank, Berlin, Maryland, the date and place of the receipt of the check by the defendant Thomas F. Johnson being to the Grand Jurors unknown. In the Third, Fourth, Fifth and Sixth Counts, the checks are alleged to have been drawn on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland; in the Second, Seventh and Eighth Counts, the checks are alleged to have been drawn on the Industrial National Bank of Miami, Florida.

Defendants have taken the position that compensation is received in the District in which a check is delivered and only in that District; that the place where a check is cashed or deposited for collection and the place where it is ultimately paid are immaterial; and that since it is alleged that the place where Johnson received the check is unknown to the Grand Jurors, the indictment fails to allege venue in this District.

The government contends that compensation was received in each instance at the place where the proceeds of the checks were made available to Johnson; that each substantive count alleges that Johnson received compensation in the State of Maryland in a specified amount, to wit, the proceeds of a specified check which was deposited in, credited to and final payment made thereon to Johnson's account at a specified bank in Berlin, Maryland; and, therefore, that the receipt of compensation in the State of Maryland has been sufficiently alleged. As an alternative contention, the government argues that when payment is made by check, the receipt of compensation in violation of sec. 281 is a continuing offense which does not end until the proceeds of the check have been made fully available to the offender; thus, there may be venue in more than one District if the check is deposited in one District and paid in another.

The meaning of the words "receives * * * compensation", as they are used in this section, was discussed by

the Supreme Court in *Burton v. United States,* 196 U.S. 283. Burton was a Congressman, who was charged in certain counts of an indictment with illegally receiving compensation in the form of checks drawn on a bank in St. Louis, Missouri. The indictment, which was brought in the Eastern District of Missouri, charged both that Burton received the checks and that the checks were paid in that District. The evidence showed that the checks had in fact been received in the District of Columbia and deposited there in the Riggs Bank, which had given immediate credit to Burton and had then sent the checks to Missouri for collection. The trial judge left to the jury the decision where compensation had been received. The Supreme Court held that under the undisputed facts and the applicable banking law the Riggs Bank was not acting as Burton's agent in collecting those checks, but that title to the checks passed in the District of Columbia to the Riggs Bank, which in contemplation of law had purchased the checks; and that venue with respect to those counts could not be laid in Missouri, where the checks were ultimately paid. The Court also held that it was not a case where an offense was commenced in one district and completed in another, rejecting the contention of the government that the offense had begun when the checks were mailed from Missouri to the District of Columbia.

Since in *Burton* the checks were physically delivered to the Congressman in the District of Columbia and immediate credit thereon given to him by the Riggs Bank in that District, defendants argue that *Burton* is no authority for the proposition that venue lies where the checks were deposited and credit given rather than where they were physically delivered. However, the entire discussion of venue in the opinion of the Supreme Court was devoted to the law and facts with respect to the deposit of the checks, the credit given and the payment of the checks. Mr. Justice Harlan dissented only because he felt that Burton had received at St. Louis compensation for his services, since the checks were paid there to his representative, the collecting bank. The government rightly argues that if the

place of physical delivery of the checks were the only place where venue might be laid, the entire discussion in *Burton* would have been beside the point. In this contention the government is supported by the following dictum of Judge Learned Hand in *United States v. Lotsch*, 2 Cir., 102 F.2d 35, 36: "Next, it is argued that the crime was committed when Lotsch took the cheques—that is in Manhattan—and not when he cashed them in Brooklyn. That was indeed held in Commonwealth v. Donovan, 170 Mass. 228, 49 N.E. 104; but State v. Walls, 54 Ind. 561, is to the contrary, and so is United States v. Green. D.C., 137 F. 618. Burton v. United States, 196 U.S. 283, 25 S. Ct. 243, 49 L. Ed. 482, favors the Indiana rule, at least by implication, because, if the receipt of the cheque be the offence, that would have been a short answer to the prosecution, for Burton concededly got the cheque in Washington."

The controlling words in sec. 281, "receives * * * compensation", are different from the controlling words in the various sections of Chapter 11 of Title 18, sec. 201 et seq., as they have read from time to time, which refer variously to the receipt of "money", "checks" or "things of value", or use other expressions.

The case of *United States v. Green*, N.D.N.Y., 136 Fed. 618, cited by Judge Hand, construed a bribery statute which made it an offense to tender "any contract, undertaking, obligation, gratuity, or security for the payment of money, or the delivery or conveyance of anything of value." The Court held that a check was not a "thing of value". Congress then amended the statute there involved by adding the word "check" before the word "contract". See Reviser's note to 18 U.S.C.A. 201. Defendants argue that since no similar amendment was made to what is now sec. 281, it must be assumed that Congress felt the term compensation included checks, even though they were not "things of value", and, therefore, that no amendment to sec. 281 was necessary. This argument ignores the probability that if Congress gave any consid-

eration to sec. 281 at that time, it was satisfied with the construction given to that section by the Supreme Court in *Burton*.[12]

The question presented by the motions presently under consideration is whether venue lies (a) where the checks were physically delivered to Johnson; (b) where the proceeds of the checks were credited to his account, either at the time of deposit or after they had been collected; (c) where the check was paid by the drawee bank; or (d) in two or more of those places.

Questions of venue are more than matters of procedure; they raise issues of public policy in the light of which legislation must be construed. *Travis v. United States*, 364 U.S. 631, 634. When venue is based solely on the receipt of compensation, there are some arguments in favor of construing the statute to mean that compensation is received at the place where a check is delivered. But this Court must be guided by the opinion in *Burton*, which, as Judge Learned Hand said in *Lotsch*, implies that the crime is committed where the check is converted into money by the Congressman, not where it is physically delivered to him.

The application of *Burton* to the case at bar is made difficult by the circumstances that the Maryland banking law is different from the banking law in effect in the District of Columbia at the time of *Burton*, as found by the majority opinion therein. Maryland has enacted the Bank Collection Code, Art. 11, secs. 118-134, Anno. Code of Md., 1957 ed., Sec. 119 thereof reads:

> "Except as otherwise provided by agreement and except as to subsequent holders of a negotiable instru-

[12] The point is not clarified by the 1962 amendments, which apparently ignoring the decision in *Green*, use the single expression "anything of value" in the new bribery statute, sec. 201, although various other expressions are used in succeeding sections of ch. 11, including new secs. 203-209. The word "compensation" has been carried over from sec. 281 to sec. 203 so far as Members of Congress and certain other officials are concerned. See sec. 2 of Pub. L. 87-849, Oct. 23, 1962, 78 Stat. 1126; 18 U.S.C.A., 1962 Pocket Part, secs. 201, 203 et seq., 281.

ment payable to bearer or endorsed specially or in blank, where an item is deposited or received for collection, the bank of deposit shall be agent of the depositor for its collection and each subsequent collecting bank shall be subagent of the depositor but shall be authorized to follow the instructions of its immediate forwarding bank and any credit given by any such agent or subagent bank therefor shall be revocable until such time as the proceeds are received in actual money or an unconditional credit given on the books of another bank, which such agent has requested or accepted. Where any such bank allows any revocable credit for an item to be withdrawn, such agency relation shall nevertheless continue except the bank shall have all the rights of an owner thereof against prior and subsequent parties to the extent of the amount withdrawn."

Since the indictment alleges that Johnson received in the District of Maryland "compensation, to wit, the proceeds of" the specified checks, which are alleged to have been "deposited in, credited to and final payment made thereon to the account of "Thomas F. Johnson" at a specified bank in Berlin, Maryland, it appears that Johnson is charged with having received compensation in Maryland, with the *Burton* opinion.

What the evidence may show is another matter.[13] If

[13] The government states the evidence will show that each check specified in Counts 2 through 8 was endorsed by Johnson in blank, that immediately upon the deposit of each such check Johnson was given credit on his account upon which he could draw, and that the credit was never revoked. This statement cannot change the effect of the indictment, but it is not inconsistent therewith. If the evidence shows that the checks were endorsed in blank, the following provision of sec. 121 will have to be considered: "Where a deposited item is * * * endorsed by the depositor in blank * * * the fact that such item is so * * * endorsed shall not change the relation of agent of the bank of deposit to the depositor, but the subsequent holders shall have the right to rely on the presumption that the bank of deposit is the owner of the item." This provision is criticized as anomalous by the draftsmen of the Uniform Commercial Code, Comments, Art. 4, secs. 4-201, but it is the statutory law of Maryland and other States. This Court does not construe that provision, however, as changing the relationship between the depositor and the depositary bank, in the absence of a specific agreement. See Art. 11, sec. 119.

the facts show that the Berlin bank was acting as Johnson's agent in collecting checks, and that the circumstances were such that under the applicable law the checks should be considered as having been converted into money when and where they were paid by the dra vee banks, venue would lie in the District of Maryland with respect to the four counts dealing with checks drawn on the Bethesda, Maryland, bank (Counts, 3, 4, 5 and 6) and not with respect to the three counts dealing with the checks drawn on the Miami, Florida, bank (Counts, 2, 7 and 8) unless the offense can be considered as having been begun in one District and completed in another, within the meaning of 18 U.S.C.A. 3237.[14]

The government argues that it may be so considered, citing *Benson v. Henkel,* 198 U.S. 1. In that case the evidence showed that the defendant mailed cash from San Francisco, California, to an official of the Department of the Interior at Washington, D. C., and the defendant, who was indicted for bribery in the District of Columbia, challenged venue. The Court treated the case as covered by sec. 731, which provided, like present sec. 3237, that when an offense is begun in one District and completed in another it shall be deemed to have been committed in either, and may be tried in either, as though it had been wholly committed therein. In the instant case, the government argues, the receipt of compensation may be regarded as having been begun when Johnson deposited the checks (or even where they were physically delivered to him), but was not completed until the checks were finally cashed, so that venue may properly be laid either in the District

[14] "§ 3237. *Offenses begun in one district and completed in another*

"Except as otherwise expressly provided by enactment of Congress, any offense against the United States begun in one district and completed in another, or committed in more than one district, may be inquired of and prosecuted in any district in which such offense was begun, continued, or completed.

"Any offense involving the use of the mails, or transportation in interstate or foreign commerce, is a continuing offense and, except as otherwise expressly provided by enactment of Congress, may be inquired of and prosecuted in any district from, through, or into which such commerce or mail matter moves."

where the checks were deposited or in the District where they were cashed. It is true that in *Burton* the Court said: "This is not a case of the commencement of a crime in one district and its completion in another, so that under the statute the court in either district has jurisdiction. Rev. Stat. sec. 731; 1 Comp. Stat. p. 565. There was no beginning of the offense in Missouri. The payment of the money was in Washington, and there was no commencement of that offense when the officer of the Rialto Company sent the checks from St. Louis to defendant. The latter did not thereby begin an offense in Missouri." 196 U.S. 283, at 304. The first sentence of that passage must be read in connection with the point argued, shown by the balance of the quotation. Even if the first sentence should be construed more broadly, as intended to cover also the conversion of the checks into money, the conclusion stated therein would not apply here, because the facts and the applicable law are different. In *Burton* the Supreme Court held that title to the checks, which had been delivered to the Congressman in the District of Columbia, had passed to the Riggs Bank in that District, since the bank had in legal effect purchased the checks from the Congressman. Under the present Maryland law, applicable in the instant case, if the Berlin bank were acting as agent of Johnson in converting the checks to cash, the offense of receiving may well be considered as having been begun when the checks were deposited in the Berlin bank and not completed until they were paid by the drawee banks or until the credit to Johnson's account was made unconditional.

It is unfortunate that questions of venue should turn upon the banking law of the place where the checks were deposited, but that appears to be the teaching of *Burton*. The government might have avoided the problem in this case by prosecuting the charges made in the Second to Eighth Counts in the District of Columbia, where the services are alleged to have been rendered. But the government had the right to seek an indictment either in the

District where the services were rendered or in the District where compensation was received.

At the present time it is only necessary to rule that under the applicable law the seven substantive counts (Second through Eighth) sufficiently allege that Johnson received compensation in the District of Maryland, and that the motion to dismiss those counts for lack of venue must be denied.

Claimed Failure to Charge an Offense Against The United States

Defendants have moved to dismiss the substantive counts (Second to Eighth) on the ground that those counts fail to state an offense against the United States committed by defendant Johnson, and therefore fail to state an offense committed by the other defendants as aiders and abettors.[15] They contend: (1) that the services were rendered by Johnson as an attorney in connection with a prosecution against Edlin and others, then pending before this District Court; (2) that sec. 281 does not prohibit a Member of Congress from receiving compensation for representing a client in court, even though the United States is a party or is interested in the case, and therefore should not be construed to prohibit him from conferring with officials of the Department of Justice in connection with the court proceeding; and (3) that no offense under sec. 281 was committed unless the compensation was received for services rendered for the purpose of obtaining favorable decisions and actions in relation to a proceeding, charge, accusation or other matter pending before a department; that the Department of Justice had no power to decide or act upon a request to postpone or dismiss the Edlin indictment, since this power rested with the Court, and therefore that there was no proceeding,

[15] A charge against an alleged aider and abettor must fall if no sufficient charge is made against the principal. *Meredith v. United States*, 4 Cir., 238 F.2d 535, 542. See also *United States v. Tornabene*, 3 Cir., 222 F.2d 875; *Edwards v. United States*, 5 Cir., 286 F.2d 681; *Karrell v. United States*, 9 Cir., 181 F.2d 981.

charge, accusation or other matter pending before the Department.

These points will be considered in order:

(1) The indictment nowhere alleges that Johnson is a lawyer, but charges him for his actions as a Member of Congress and not as an attorney acting for a client. The Court may take judicial notice of the fact that Johnson is a member of the bar, but may also take notice of the fact that he did not enter his appearance for any of the defendants in the indictment against Edlin et al, which was pending in this Court. It does not appear from the indictment in the instant case or from any of the motions filed herein that Johnson told the officials of the Department of Justice that he was appearing before them or acting as an attorney representing any of the defendants named in the indictment against Edlin et al.

(2) Sec. 281 does not prohibit a Member of Congress from receiving compensation for appearing in a court proceeding even though the United States is a party or otherwise interested. Congressional Globe, pt. 1, 38th Cong., 1st sess. (1863-64), pp. 63, 555-56, 561. See also 42 Cong. Rec. (1908), pp. 1895-1898; *Burton v. United States,* 202 U.S. 344, 365; *United States v. Waldin,* E.D. Pa., 122 F. Supp. 903; *United States v. Adams,* D.N.D., 115 F. Supp. 731; *United States v. Quinn,* E.D.N.Y., 111 F. Supp. 870.

It is not necessary to decide on the pending motions to what extent a Member of Congress who has entered his appearance publicly for a defendant in a criminal case pending in a federal court may act outside the court room to persuade officials or employees of the Department of Justice to take or refrain from taking any specific action in that case. Cf. *Chudoff v. McGranery,* 3 Cir., 179 F.2d 869. It is difficult, perhaps impossible, to draw a line if the Congressman is openly appearing as an attorney for the accused. But that is not the situation presented by this indictment and by these motions.

The main purpose of sec. 281 is "to secure the integrity of executive action against undue influence upon the part of members of that branch of the Government whose favor may have much to do with the appointment to, or retention in, public position of those whose official action it is sought to control or direct. The evils attending such a situation are apparent and are increased when those seeking to influence executive officers are spurred to action by hopes of pecuniary reward." *Burton v. United States*, 202 U.S. at 368. See also *United States v. Quinn*, S.D.N.Y., 141 F. Supp. 622, 624. The evils are further increased if the Member of Congress fails to disclose the fact that he is appearing as an attorney for compensation and not as a disinterested public official.

None of the cases cited by either the government or defendants is directly in point, but they have been helpful in clarifying the issue.

Although the statute must be strictly construed, it should be construed to accomplish its purpose, as defined by the Supreme Court, and to prevent the mischief at which it was aimed. All "court related activities" are not excluded from its operation. Under the facts charged in the indictment and appearing from the motions, see discussion under (1) above, the pendency in court of the indictment against Edlin et al. at the time Johnson is alleged to have rendered services for compensation before the Department of Justice does not of itself preclude a prosecution under sec. 281.

(3) Defendants' third point assumes that there was no violation of sec. 281 unless the proceeding, charge, accusation or other matter was *pending* before the Department. They argue that since the indictment against Edlin et al. was pending before this Court, there was nothing pending before the Department of Justice on which it could act. However, the word "pending" does not appear in sec. 281. The words "before any department, agency", etc. refer to where the services have been rendered or are to be rendered, not where the proceeding or other matter is

pending. This conclusion is supported by the way the offense was stated in the second *Burton* opinion, where the Supreme Court, construing a predecessor statute which used similar language, said: "But we cannot doubt the authority of Congress by legislation to make it an offense against the United States for a Senator, after his election and during his continuance in office, to agree to receive or to receive compensation for services to be rendered or rendered to any person, before a Department of the Government, in relation to a proceeding, matter or thing in which the United States is a party or directly or indirectly interested." 202 U.S. at 365. See also *Waldin*, 122 F. Supp. at 905, and the Report of the Judiciary Committee of the House in connection with the 1962 statute above referred to, which makes it clear that the new statute, like the old, is intended to embrace all matters that come before a Federal department or agency.[16]

Defendants argue that the Department was without power to postpone or dismiss the court proceeding. Nevertheless, the Department had power to request a postponement and to move to dismiss the indictment. Rule 48(a), F. R. Crim. P., 18 U.S.C.A. That was the determination and action by the Department sought by Johnson, according to the indictment. The fact that Court approval would be necessary to accomplish a final dismissal of the indictment is not fatal to the charge made in the Second to Eighth Counts. *Felder v. United States*, 2 Cir., 9 F.2d 872, 874.

C.

PAYER AS AIDER AND ABETTOR

Edlin and Robinson have moved to dismiss the substantive counts as against them on the ground that one who pays money to a Member of Congress is not an aider and abettor of the crime of receiving compensation pro-

[16] H.R. Rep. No. 748, 87th Cong., 1st Sess., July 20, 1961, p. 20.

scribed by sec. 281.[17] So stated, the proposition presents a serious legal question, which has been answered differently by different judges. See *May v. United States,* D.C. Cir., 175 F.2d 994, 1002 et seq., with dissenting opinion by Judge Stephens, 175 F.2d at 1011, 1018, et seq., and *United States v. Bowles,* D.Me., 183 F. Supp. 237. See also *Gebardi v. United States,* 287 U.S. 112; *Nigro v. United States,* 8 Cir. 117 F.2d 624; and *Lott v. United States,* 9 Cir., 205 Fed. 28. It is not necessary, however, to answer that question at this time. Each of the seven substantive counts charges Edlin and Robinson, as well as Boykin, with "aiding, abetting, counselling, commanding, inducing and procuring" the commission of the offense. A bill of particulars, furnished at defendants' request, states that Boykin, Edlin and Robinson "aided, abetted, counselled, commanded, induced and procured" Johnson in the rendering of the services alleged as well as in the receipt of the compensation alleged. The manner in which the several defendants are claimed to have aided and abetted the planning and performance of the services is specified in detail in the bill of particulars. If the evidence shows that Edlin and Robinson did nothing to aid and abet the alleged offenses except to make the payments charged in the several counts, they may raise the point on motion for judgment of acquittal. But the allegations contained in the substantive counts of the indictment are sufficient. *United States v. Quinn,* E.D.N.Y., 111 F. Supp. 870.

* * * * * *

All motions to dismiss the Second to Eighth Counts are hereby denied, without prejudice to the rights of defendants to raise similar points by motions at the conclusion of the government's case or at the close of all the evidence.

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[17] They argue that where a statute defines as criminal an act which necessarily requires the participation of two persons, and the statute specifically makes only one of those persons criminally liable, this is evidence of a legislative intention to leave the conduct of the other unpunished.

III.

Motions for Discovery

A.

Grand Jury Testimony

Boykin and Johnson have each moved, pursuant to Rule 6(e), F. R. Crim. P., for an order directing production of a transcript of their respective testimony given before the grand jury which returned the indictment in this case. Both of them voluntarily accepted an opportunity to testify before the grand jury; neither was summoned.

Boykin has supported his motion by his own affidavit and by a letter from George W. Calver, M.D., the attending physician to the Congress of the United States, which has been admitted in evidence in support of his motion without objection from the government. From the affidavit and certificate, it appears: that Boykin testified before the grand jury on October 12, 1962; that he had been a patient at the U. S. Naval Hospital at Bethesda, Maryland, from September 29 until October 10; that his appearance before the grand jury was against the advice both of the medical officers at the Hospital and of Dr. Calver, who had told Boykin that he should take at least a week to recover from his cardiac difficulties and to get his strength back; that Boykin had a difficult time making the trip to Baltimore; that he was weak, particularly while testifying before the grand jury, and that he was under physical and emotional strain. Boykin also states that he has not been able to remember with clarity or to inform his attorneys about the testimony which he gave at the grand jury hearing; that his home in Mobile, Alabama, and his office in Washington, D. C., were burglarized on or about March 4, 1962, and, following the burglaries, a number of documents referred to in the First Count were missing.

Johnson has supported his motion by an affidavit that he was interrogated by the United States Attorney for several hours on September 25, 1962, and produced certain records which had been requested; that he recalls clearly some of his testimony, but by reason of the length of the testimony, the intensity at times with which it was conducted, and the fact that he was tired, physically and mentally, from his work in the House of Representatives and his vigorous campaign for reelection, he does not recall a considerable part of his testimony; that he seeks an opportunity to inspect and copy the transcript of his testimony before the grand jury in order that he may prepare adequately in advance of the trial his defense to the accusations contained in the indictment.

In response to a request from the Court, the government has stated that it has not yet decided whether it will use the testimony of Borkin as part of its case in chief against him, and will not decide until a week or so before the trial. The government made the same statement with respect to the possible use of Johnson's testimony.

The long established policy of the federal courts, firmly entrenched in this Circuit and this District, is to preserve the secrecy of grand jury proceedings. Disclosure of grand jury testimony should rarely be granted and then only under "compelling circumstances", upon a showing of "particularized need". *Pittsburgh Plate Glass Co. v. United States,* 360 U.S. 395, 399; *United States v. Proctor & Gamble Co.,* 356 U.S. 677, 681; *United States v. Socony Vacuum Oil Co.,* 310 U.S. 150, 234; *United States v. Kahaner,* S.D.N.Y., 203 F. Supp. 78, 86; *United States v. Wortman,* E.D. Ill., 26 F.R.D. 183, 206.

The facts alleged in support of Johnson's motion are similar to those in *Kahaner,* where Judge Weinfeld said: "Undoubtedly most persons who appear before grand juries as prospective defendants are under some emotional tension. However, it would indeed be unusual for any person, whether calm or under stress, to recall the precise details of his questioning. If this were an ade-

quate basis upon which to require disclosure of testimony, the grand jury minutes should be made available as a matter of course to any witness who is later indicted. Perhaps this should be the rule. While there are those, including this Court, who believe that in an enlightened system of criminal justice defendants who have made voluntary statements to prosecution and investigation officials should, as a matter of simple fairness, receive copies of their statements, such view has not yet found general favor and admittedly there does not appear any doctrinal trend in that direction. To grant this motion on the sole ground advanced would not only breach the historic policy against disclosure of grand jury matters, but would initiate a precedent which appears foreclosed by the rationale of the recently decided Murray case."[18] 203 F. Supp. at 87. There is no showing that Johnson was not in full possession of his faculties when he gave his testimony; nor is any reason suggested why his present version of the facts should differ from the original.

Johnson has shown no "compelling circumstances" or "particularized need" for the disclosure of his testimony at this time.[19] His motion is hereby denied, without prejudice to his right to renew the motion if and when the government decides to offer his grand jury testimony as part of the case in chief. This Court intimates no option as to what its ruling would then be.

Boykin's motion presents a different situation. His poor physical condition at the time he testified is supported not only by his own affidavit but by the certificate of the attending physician to the Congress. Under all the circumstances, the Court feels that Boykin has shown a "particularized need" to examine his testimony at this time, so that he may know the incidents which he may be called upon to admit, deny or explain, and to prepare his defense. His motion is hereby granted.

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[18] *United States v. Murray*, 2 Cir., 297 F.2d, 820-22.

[19] If the general rule is to be charged it should be done by the Supreme Court, perhaps by an amendment to the Criminal Rules. This Court adheres to the general rule.

B.

OTHER

Defendants requested the disclosure of various items believed to have been in the possession of the government. The Court understands that all such questions have now become moot, either because the government has made the material available to defendants or because the government has stated that it does not have the particular document requested.

Chief Judge, U. S. District Court

[Tr. 6256-6306]:

CHARGE OF THE COURT TO THE JURY

(The Court) Members of the jury, the time has now come for me to charge the jury, that is, to instruct you as to the law of the case.

As I think you already know, the functions of the judge and the jury are quite different. It is my duty, as judge, to instruct you as to the law applicable to this case. It is your duty to accept without question for the purposes of the case the statements which I make to you about the law. But is the province of the jury, your province, to determine the facts from the evidence.

In my instructions to you on the law of the case, I may refer to some of the evidence for purposes of illustration or for advisory help in the application of the law to the facts as the jury may find the facts. But I emphasize again that it is the sole power, duty and function of the jury to appraise the evidence and to determine from the evidence what are the facts in the case, and that any reference I may make to the evidence is advisory only and it is in no way binding on you.

What I may say to you about the facts—I may say that I expect to say very little, because the facts have been

fully argued to you by counsel on both sides within the last two or three days.

What I may say to you about the facts is not intended to convey to you any opinion that I may have about the guilt or innocence of any of the defendants, nor to imply that I have any such opinion, nor is it intended to convey any opinion I may have as to how any of the questions of fact in the case should be answered.

I have not intended to express or to intimate any opinion as to what witnesses are worthy of belief or disbelief. I have not intended to express or intimate any opinion as to what disputed facts are established, or what facts have not been established. I have also not intended to express or intimate any opinion as to what inferences should be drawn from the evidence.

You and only you are the judges of the facts. If any expression of mine or anything I may or may not have done or said has seemed to indicate any opinion relating to any of these matters, I instruct you to disregard it.

In determining the guilt or innocence of the defendants and any subsidiary questions of fact involved in the case, you may consider not only the evidence to which I may refer, and the evidence to which you may have been referred by counsel in their arguments, but you may also consider any testimony or exhibits in the case, whether or not referred to by me or by counsel, which you may believe to be material in determining the question of the defendants' guilt or innocence on any of the counts of the indictment. My reference to certain facts does not of course give them any greater or different significance than you would otherwise ascribe to them. In the course of the trial I have asked questions of some of the witnesses. This was done solely to develop information. Neither the questions nor the answers thereto have any other or different or greater significance than they would have if the questions had been asked by any of the counsel.

You are to consider only the evidence in the case. But in your consideration of the evidence you are not limited to the bald statements of the witnesses. On the contrary, you are permitted to draw, from facts which you find have been proved, such reasonable inferences as seem justified in the light of your own experience.

The statements of counsel are not evidence and should not be considered as evidence unless such statement or statements were made as admissions or stipulations conciding the existence of a fact or facts.

You must not consider for any purpose any evidence offered and rejected or which has been stricken out by the Court; such testimony is not evidence in this cause and is to be completely disregarded. Most of the evidence has been admitted generally and may be considered for or against all of the defendants. However, I have instructed you from time to time that some of the evidence is not admissible against one or more of the defendants.

In deciding the case against a particular defendant, you are to decide this case solely upon the evidence that has been admitted by the Court as to that defendant, and the inferences that you may reasonably draw as to that defendant and such presumptions as the law affords as to that defendant.

At times throughout the trial the Court has been called upon to pass upon the admissibility of certain offered evidence. You should not be concerned with such rulings or the reasons for them. Whether evidence which has been offered is admissible or is not admissible is purely a question of law, and from a ruling on such question you are not to draw any inference. In admitting evidence, to which an objection has been made, the Court does not determine what weight should be given to such evidence. You must not guess what the answer might have been to any question to which an objection was sustained and you must not speculate as to the reason the question was asked or the reason for the objection. Every defendant has the right to object to

any evidence offered against him, to obtain from the Court the legal opinion of the Court as to whether such evidence is admissible and, if admissible, for what purposes and to what extent. You are not to infer that any objection to evidence had any other purpose. The same is true with respect to any objections which may have been made by the Government.

This is a criminal case. There are certain rules which apply to criminal cases generally, to which I will now refer.

An indictment is but a formal method of accusing a defendant of a crime. It is not evidence of any kind against the accused, and does not create any presumption or permit any inference of guilt. A defendant cannot be convicted except upon the determination of the truth of one or more of the charges by the unanimous verdict of the jury.

Another rule applicable to criminal cases is that a defendant is entitled to the presumption of innocence. This presumption attends him throughout the trial, and the burden of overcoming this presumption rests upon the government, which must establish a defendant's guilt by evidence beyond a reasonable doubt with respect to every essential element of the particular count under consideration.

From the beginning of the trial to the end, the government has the burden of establishing beyond a reasonable doubt, every fact essential to the conviction of the defendants; the defendants have no burden to sustain, and have no duty to prove that they did not commit the alleged crime; it is enough if their evidence taken with the government's raises a reasonable doubt of guilt, in which event they must be acquitted.

A reasonable doubt means a doubt founded upon reason. It does not mean a fanciful doubt, or a whimsical or capricious doubt, for anything relating to human affairs and depending upon human testimony is open to some possible or imaginary doubt.

A reasonable doubt is such a doubt as would cause reasonable men to hesitate to act in matters of importance to themselves.

When all the evidence in the case, carefully analyzed, compared and weighed by you, produces in your minds a settled conviction or belief of a defendant's guilt, such a conviction as you would be willing to act upon in matters of the highest importance relating to your own affairs, when it leaves your minds in such a condition that you feel an abiding conviction amounting to a moral certainty of the truth of the charge, then, and in that event, you would be free from a reasonable doubt. Absolute or mathematical certainty is not required, but there must be such certainty as satisfies your reason and judgment, and upon which you feel conscientiously entitled to act.

A reasonable doubt may arise not only from the evidence produced, but also from a lack of evidence. Since the burden is upon the prosecution to prove the accused guilty beyond a reasonable doubt of every essential element of the crime charged, a defendant has the right to rely upon failure of the prosecution to establish such proof. A defendant may also rely upon evidence brought out on cross examination of witnesses for the prosecution. The law does not impose upon a defendant the duty of producing any evidence.

The jury should not reach a verdict based on conjecture or speculation, nor on sympathy or emotion of any kind in favor of a defendant or against a defendant, either generally, or in this particular case. You should find your verdicts on the evidence, that is, the testimony of the witnesses testifying under oath and the documents admitted in evidence as exhibits.

The defendants are on trial only for the offenses charged in the indictment and not for any act or conduct not charged in the indictment.

You should not consider in any way in your deliberations any fact, opinion or impression you may have held or re-

ceived before the trial or may have received during the trial except from the evidence in the case.

You are, however, expected to use your good sense; to consider the evidence only for those purposes for which it has been admitted and give it a reasonable and fair construction in the light of your common knowledge of the natural tendencies and inclinations of human beings.

You, as jurors, are the sole judges of the credibility of the witnesses and the weight their testimony deserves. A witness is presumed to speak the truth. But this presumption may be outweighed by the manner in which the witness testifies, by the character of the testimony given, or by contradictory evidence. You should carefully scrutinize the testimony given, the circumstances under which each witness has testified, and every matter in evidence which tends to indicate whether the witness is worthy of belief. Consider each witness' intelligence, motive and state of mind, and his demeanor and manner while on the stand. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be effected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently, and innocent misrecollection, like failure of recollection, is not an uncommon experience.

In weighing the effect of a discrepancy, consider whether it pertains to a matter of importance or an unimportant detail and whether the discrepancy results from innocent error or willful falsehood. If you find the presumption of truthfulness to be outweighed as to any witness, you will give the testimony of that witness such credibility, if any, and such weight, if any, as you may think it deserves.

A witness may be discredited or impeached by contradictory evidence, or by evidence that at other times the witness has made statements which are inconsistent with the witness' present testimony.

If you believe any witness has been impeached and thus discredited, it is your exclusive province to give the testimony of that witness such credibility, if any, as you may think it deserves.

If a witness is shown knowingly to have testified falsely concerning any material matter, you have a right to distrust such witness' testimony in other particulars, and you may reject all the testimony of that witness or give it such weight and credibility as you may think it deserves.

All evidence of a witness whose self-interest or attitude is shown to be such as might tend to prompt testimony unfavorable to the accused, should be considered with caution and weighed with great care.

Consider the interest or lack of interest of any witness in the case, including that of the defendants who have testified, the witness' interest in the outcome of the case, whether the witness has any bias or feeling about it, the witness' relationship or friendship with the parties in interest, the defendants or the government, the witness' means of knowledge of the facts he testifies to, and professes to know and understand, his chance or opportunity to know the facts about which he testifies, the reasonableness or unreasonableness of the testimony given, whether the witness has made contradictory statements or not about material matters involved in the case. Use your own good judgment and sound common sense in this matter in passing on the weight you will give to a witness' testimony. Bring to the task, members of the jury, your knowledge of human nature; your common sense and your ability to judge men. By these methods and any others that are proper and reasonable and just to determine the truth, pass on and determine the credibility of the witness and the weight that you will give to the testimony.

Conduct of a defendant, including statements made and acts done upon being informed that a crime has been committed, or upon being confronted with a criminal charge, may be considered by the jury in the light of other evidence in the case, in determining the guilt or innocence of the accused.

When a defendant voluntarily offers an explanation or makes some statement tending to establish his innocence, and such explanation or statement is later shown to be false, the jury may consider whether this circumstantial evidence points to a consciousness of guilt. It is reasonable to infer that an innocent person does not ordinarily find it necessary to invent or fabricate a voluntary explanation or statement tending to establish his innocence.

Whether or not the evidence with respect to a defendant's voluntary explanation or statement points to a consciousness of guilt, and the significance, if any, to be attached to such evidence, are matters for determination by you, the jury.

You are to consider all the instructions as a whole and regard each in the light of all the others.

Unless otherwise indicated, each instruction given should be considered by you as referring separately and individually to each defendant on trial.

You must consider the charges as to each defendant independently and must consider each count of the indictment separately as to the charges made against the particular defendants.

A separate crime or offense is charged against each of the defendants in each count of the indictment. Each offense and the evidence applicable thereto should be considered separately. Your verdicts may be the same, or different, with respect to the various defendants, and as to any defendant, with respect to the different counts.

It is your duty to give separate, personal consideration

to the case of each individual defendant. When you do so, you should analyze what the evidence shows with respect to that individual, leaving out of consideration entirely all evidence admitted solely against some other defendant or defendants.

Now I have here some copies of the indictment. The original indictment will be taken and handed to the foreman and taken into the jury room. But it is a long document, and so that you may understand it better I have enough copies here to be given one to each two jurors, if you will distribute them that way, and then I will try to show you the different sections of it and to explain the different sections of the indictment to you so that you will be able to follow it.

Now, I suggest that Mr. Menzies and the alternate take them, and then the next two and three, three and four, and there will be just one odd that way. Mrs. Zeilinski, give No. 6 one, too, please. Now, the last lady, No. 12, needs one. It doesn't matter so long as there is one for every two.

I suggest that you not read it now. I will come to it in just a moment.

There are eight counts in the indictment. A count is a separate charge. You will have to bring a separate verdict as to each defendant on each count.

The first count, which begins on the first page of the indictment charges a conspiracy. Now, before you read it, let me go on.

The remaining seven counts are what we call substantive counts. I will instruct you with respect to the conspiracy count first and later on I will instruct you as to the substantive counts.

First, generally, what a conspiracy is. A conspiracy is a combination of two or more persons by concerted action to accomplish some unlawful purpose, or to accomplish a

lawful purpose by unlawful means. Thus a conspiracy is a kind of "partnership in criminal purposes" in which each member becomes the agent of every other member. The gist of the offense is a combination or agreement to violate or disregard the law.

Mere similarity of conduct among various persons and the fact that they may have associated with each other, and may have assembled together and discussed common aims and interests, does not necessarily establish proof of the existence of a conspiracy.

However, the evidence need not show that the members entered into any express or formal agreement, or that they directly, by words spoken or in writing, stated between themselves what their object or purpose was to be, or the details thereof, or the means by which the object or purpose was to be achieved. What the evidence must show, in order to establish proof that a conspiracy existed, is that the members in some way or manner, or through some contrivance, positively or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan.

One may become a member of a conspiracy without full knowledge of all the details of the conspiracy. On the other hand, a person who has no knowledge of a conspiracy, but merely happens to act in a way which furthers an object or purpose of the conspiracy, does not thereby become a conspirator.

Before a jury may find that a defendant, or any other person, has become a member of a conspiracy, the evidence must show that the conspiracy was formed, and that the defendant, or other person who is claimed to have been a member, knowingly and willfully participated in the unlawful plan with the intent to advance or further some object or purpose of the conspiracy.

To participate knowingly and willfully means to participate voluntarily and understandingly, and with specific intent to do some act the law forbids, or with specific intent

to fail to do some act the law requires to be done; that is to say, to participate with bad purpose either to disobey or to disregard the law. So if a defendant, or any other person, with understanding of the unlawful character of a plan, intentionally encourages, advises or assists, for the purpose of furthering the understanding or scheme, he thereby becomes a knowing and willful participant—in other words, a conspirator.

One who knowingly and willfully joins an existing conspiracy is charged with the same responsibility as if he had been one of the instigators of the conspiracy.

In determing whether or not a defendant, or any other person, was a member of a conspiracy, the jury are not to consider what others may have said or done out of his presence. That is to say, the membership of a defendant, or any other person, in a conspiracy must be established by evidence as to his own conduct, what he himself said and did, or what was said and done in his presence.

If and when it should appear from the evidence that a conspiracy existed, and that a defendant was one of the members, then the acts thereafter knowingly done, and the statements thereafter knowingly made, by any person likewise found to be a member, may be considered by the jury as evidence in the case as to the defendant found to have been a member, even though the acts and statements may have occurred in the absence and without the knowledge of the defendant, provided such acts and statements were knowingly done and made during the continuance of such conspiracy and in furtherance of an object or purpose of the conspiracy.

Otherwise, any admission or incriminatory statement made outside of court by one person may not be considered as evidence against any person who was not present and heard the statement made.

In your consideration of the evidence as to the offense of conspiracy charged, you should first determine whether or

not the conspiracy existed as alleged in the indictment. If you conclude that such conspiracy did exist, you should next determine separately as to each defendant whether or not each defendant knowingly and willfully became a member of the conspiracy.

If it appears from the evidence beyond a reasonable doubt that a conspiracy was knowingly and willfully formed as alleged in the indictment; and that the accused knowingly and willfully became a member of the conspiracy at the inception of the plan or scheme or afterwards; and that thereafter one or more of the conspirators knowingly committed in furtherance of an object or purpose of the conspiracy, one or more of the overt acts charged; then the success or failure of the conspiracy to accomplish the common object or purpose is immaterial.

By the term "overt act" is meant any act committed by one of the conspirators in an effort to effect or accomplish some object or purpose of the conspiracy. The overt act need not be criminal in nature, if considered separately and apart from the conspiracy. It may be as innocent as the act of a man walking across the street, or driving an automobile, or using a telephone. It must, however, be an act which follows and tends toward accomplishment of the plan or scheme, and must be knowingly done in furtherance of some object or purpose for the conspiracy charged in the indictment.

There does not seem to be any dispute that one or more of the overt acts charged was done in the State of Maryland. The dispute is whether or not a conspiracy existed and, if so, who were the conspirators.

Now you may pick this up and in just a minute I will start leading you to the various paragraphs.

The first count charges all four defendants in this case with conspiracy to defraud the United States of its governmental rights, namely, the impartial and honest operation of the Department of Justice free from corrup-

tion, improper and undue influence—you need not read that. I will take it paragraph by paragraph in a moment. I noticed a number of you were reading, and this, first, is simply a summary of it, and then I will show you how it appears in there.

The first count charges all four defendants in this case with conspiracy to defraud the United States of its governmental rights, namely, the impartial and honest operation of the Department of Justice free from corruption, improper and undue influence, fraud, and unlawful impairment and obstruction as a result of the activities of the defendants Johnson and Boykin before that Department, and in depriving the United States of the faithful, loyal and conscientious services of Johnson and Boykin, as Congressmen in violation of section 371, Title 18, of the United States Code. The language of this statute forbids an illegal agreement to defraud the United States in any manner or for any purpose. It has been legally decided by the courts, and I so instruct you, that the phrase "defraud the United States in any manner or for any purpose" is not limited merely to conspiracies to deprive the United States of money or property or other things of pecuniary value. It also comprehends the right of the government not to be defrauded of the unbiased, independent, faithful, loyal services of its employees, including Congressmen, and that its legitimate official action shall not be defeated by misrepresentation, chicanery, overreaching, trickery, or by means that are dishonest.

Now, before I start reading the indictment, and after I finish I am going to repeat it, I instruct you that in determining whether there was a conspiracy, that is to say, whether the defendants conspired to defraud the United States, the jury must do so upon the basis of the testimony and exhibits and not from the averments of the indictment. The indictment is just a charge that is made against the defendants. Now, with that understanding, we come to this:

The first count, the conspiracy count, covers the first seventeen pages of the indictment. The first count, the

conspiracy count begins by identifying the defendants and their alleged co-conspirators. Now, introducing the defendants and saying who they are occupies something like the first twelve paragraphs. It just says who the defendants are, and is not evidence in the case. You have heard who the people are from the evidence.

Now, paragraph 13 alleges and refers to the indictment against Edlin and the First Colony Savings and Loan Association, which was pending in the District of Maryland in 1960 and 1961.

Now, then we come to paragraph 14. The indictment charges in paragraph 14, which, as you will see, begins on page 3 and runs down through the middle of page 5. It has an introductory paragraph and then four separate subparagraphs.

Paragraph 14 charges that from on or about April 1, 1960, and continuously thereafter until on or about December 31, 1961, the defendants and their co-conspirators conspired in Maryland and elsewhere to defraud the United States of and concerning its governmental functions and rights described in these four subparagraphs (a), (b), (c) and (d) in summary, as follows:

Paragraph (a), its right to have the business of the Department of Justice conducted free from improper and undue influence.

Paragraph (b), its right to have the personnel of that Department free to transact its official business unhindered by the exertion upon them of corrupt, unlawful, improper and undue pressure and influence.

Paragraph (c), its right to have the duties of Johnson and Boykin in their official capacities as Members of the House to be performed free from corruption resulting from their personal and pecuniary interest in the success of Edlin, et al, in attempting to persuade the Department of Justice to cause the postponement of the trial and the eventual dismissal of the indictment against Edlin, et al.

And in paragraph (d), its right not to be deprived of the faithful services of Johnson and Boykin in their official capacities as Members of the House uninfluenced by corruption and by payments of money and other valuable considerations to them by the other defendants and co-conspirators as compensation for services rendered and to be rendered by Johnson in behalf of the other defendants and co-conspirators in relation to matters pending in the House and for services rendered and to be rendered by Johnson and Boykin before the Department of Justice in relation to proceedings, charges and accusations in which the United States is a party and directly interested.

Now, that is the definition of the conspiracy. The conspiracy is to defraud the United States—you have heard that said. And these four paragraphs simply state the rights which it is claimed the United States was defrauded of.

It is simply a recitation of rights, because the object and purposes in what is alleged to have been done pursuant to the conspiracy follows and begins at paragraph 15. Now, paragraph 14 simply states what the Government charges the conspiracy was. Paragraph 15 says what things were part of the conspiracy. Paragraph 15 says that it was a part of the conspiracy that Johnson should at the request of Edlin and Robinson render services for compensation to them and their co-conspirators, namely the making of a speech on the floor of the House defending the operations of the Maryland Independent Savings and Loan Associations, the stability and solvency thereof and reliability and integrity of commercial insurance on investments made by said independent savings and loan associations, on the Floor of the House of Representatives.

Paragraph 16 alleges that it was part of the conspiracy that Johnson, Edlin and Robinson would cause to be reprinted 50,000 copies of said speech for distribution to prospective depositors in the aforesaid savings and loan associations, to members of the General Assembly of Maryland and to others.

A[illegible]ragraph 17 to 25 which begin on page 5, I think, and run to page 8, allege that it was part of the conspiracy that Johnson and Boykin should at the request of the other defendants and their co-conspirators render specified services for compensation in relation to the aforesaid indictment, bringing the prestige, weight and influence of their official position to bear upon the officials of the Department of Justice to obtain decisions and actions beneficial to the defendants and their co-conspirators, particularly the postponement of the trial and the eventual dismissal of the indictment.

Now, the rest of that first count, from page 8 through page 17, alleges 75 overt acts alleged to have been committed or done in furtherance of the conspiracy.

Now, as I have told you, that, although it is only required that one overt act be done in the State of Maryland, there has been no dispute in the case—I come back to what I said a moment ago—there does not seem to be any dispute that one or more of the overt acts charged was done in the District of Maryland. The dispute is whether or not the conspiracy charged in the indictment existed and if so, who were the conspirators?

Now, let me come back and say again that I instruct you that, in determining whether there was a conspiracy, that is to say, whether the defendants conspired to defraud the United States, the jury must do so upon the basis of the testimony and exhibits and not from the averments of the indictment.

Count No. 1 of the indictment charges the defendants of conspiring together to defraud the United States, as I have said. In order to find the defendant or defendants, or any of them guilty of participating in such conspiracy, you must find beyond a reasonable doubt that they used misrepresentation, concealment, overreaching, trickery, or inherently dishonest means to interfere with lawful governmental functions. To find them guilty you must find that they knowingly joined in an unlawful agreement or had a

mutual tacit understanding to defraud the United States before you can find them to be guilty of a violation of the statute on which the First Count is based. Even if you find that any of the defendants committed one or more of many alleged overt acts, they did not violate the statute unless they knowingly joined in such an agreement or in such a mutual tacit understanding.

You may find from the evidence that the Government has proved all of the elements necessary to show the single conspiracy charged in the indictment and one or more overt acts in support thereof done in the State of Maryland. In that event you will convict any or all of the defendants whom you find adhered to that conspiracy. You may find from the evidence that the Government has failed to prove that any conspiracy to defraud the United States was entered into by any of the defendants in which event you will acquit all of the defendants on Count 1.

This next point applies particularly to the Defendant Boykin. You may, on the other hand, find that the Government has proved, instead of one conspiracy, two separate conspiracies, the first beginning on April 1, 1960, to defraud the United States of its governmental functions largely by the making of a speech by defendant Johnson and distribution of reprints thereof; the second, beginning in 1961, to defraud the United States of its governmental functions by unlawfully interceding with the Department of Justice to procure the dismissal or postponement of the prosecution then pending in this Court in Criminal No. 25038. If you find that the Government has proved two conspiracies rather than one, then you are instructed that there is no evidence before you from which you can find that defendant Boykin participated in the first of the conspiracies, and you cannot find him guilty under the first count unless you find that the Government has proved beyond a reasonable doubt that in 1961 Boykin participated in a conspiracy to defraud the United States of its governmental functions by interceding with the Department of Justice to procure the dismissal or postponement of the

prosecution then pending in this Court in Criminal No. 25038 which is the number of the case that you have been hearing about.

The indictment charges: "It was a part of the conspiracy that the defendants Edlin and Robinson would pay the defendant Boykin and Tensaw Land and Timber Company the sum of $250,000 and would offer and promise to the defendant Boykin and Tensaw Land and Timber Company compensation and other valuable considerations as an inducement for the defendant Boykin to use his influence as a member of the House of Representatives in attempting to secure the postponement of the trial of the charges contained in the indictment hereinbefore described in paragraph 13, and the eventual dismissal of said indictment."

Boykin does not deny that two checks totalling $250,000 payable to the Tensaw Land and Timber Company were delivered to him, but he takes the position that they were made as part of arms' length transactions in connection with real estate, about which you have heard evidence. You have heard a great deal of testimony about the nature of those transactions and the value of the properties. The exact value of the properties is not important. The value of the properties is important in this case as hearing on the questions whether the payments to Boykin were part of an arm's-length transaction or were intended to be and were received as an inducement to Boykin to use his influence as a member of the House of Representatives in attempting to secure the postponement of the trial of the charges contained in the indictment pending in this Court in Criminal No. 25038 and the eventual dismissal of said indictment, as charged in paragraph 24 that I have read to you. That is the issue on which the question of value is important.

A person who, without knowledge of the existence of a conspiracy, happens to act in a way which furthers an object or purpose of the conspiracy does not thereby become a conspirator. Therefore, even if you find from the

evidence that a conspiracy was formed on or about April 1, 1960, for the purpose of promoting the interests of Defendant Edlin or his two savings and loan associations, and even if you further find that defendant Boykin acted in 1961 in a way to promote the interests of defendant Edlin or his savings and loan associations, you will not return a verdict of guilty against Boykin on count one of the indictment, unless you can find beyond a reasonable doubt that, when he so acted in 1961, he knew of the existing conspiracy and its purpose and knowingly and wilfully entered into it to further any of its objectives.

To summarize, in order to establish the offense of conspiracy charged in the indictment, the evidence must show beyond a reasonable doubt:

First: That the conspiracy described was formed and existing at or about the time alleged;

Second: That the accused knowingly and wilfully became a member of the conspiracy at some time during its existence;

Third: That one of the conspirators thereafter knowingly committed in the District of Maryland at least one of the overt acts charged in the indictment, at or about the time and place alleged; and

Fourth: That the overt act was committed in furtherance of some object or purpose of the conspiracy as charged.

If you find from the evidence beyond a reasonable doubt that the existence of the conspiracy charged in the indictment has been proved, and that during the existence of the conspiracy one of the overt acts alleged was knowingly done in the District of Maryland by one of the conspirators in furtherance of some object or purpose of the conspiracy as charged, proof of the conspiracy offense charged is then complete; and it is complete as to every person found by you to have been knowingly and wilfully a member of the conspiracy at the time the overt act was committed, regardless of which of the conspirators did the overt act.

Now, Members of the Jury, that is the First Count and it is considerably more than half of what I am going to read to you. I suggest that you take, if you would like, one minute for members of the jury to stand up and stretch if you like, and let me take a drink of water and then we will go on to the second half of the charge. You need not leave the room unless you want to.

(A brief recess was taken.)

(The Court) And here again this is a summary. Now, Count 2 of the indictment begins on page 18. Counts 2 through 8 of the indictment charge that Congressman Johnson, aided, abetted, counseled and induced by Congressman Boykin and by Edlin and Robinson received a specific check, a different check in each count, for services rendered and to be rendered by Johnson before the Department of Justice in a proceeding, charge and accusation in which the United States was a party and directly interested, namely, an indictment returned on November 17, 1959, in the United States District Court for the District of Maryland against Edlin, First Colony Savings and Loan Association and others, for alleged mail fraud, such services consisting interceding and conferring with officials of the Department of Justice, presenting assertions, arguments and allegations, and using the official position, weight and influence of Johnson's office as Congressman, to influence and persuade these officials to recommend and obtain the postponement of the trial of the charges contained in the said indictment and the eventual dismissal of that indictment. These charges are based upon Section 281 of Title 18, United States Code as it existed at the time of the return of the indictment in this case and now exists in another Section of the Code.

That law. so far as applicable here, is as follows: "Whoever, being a member of or delegate to Congress"—and this is the statute in which the violation is charged and this is, of course, a part of the conspiracy which we have here.

"Whoever, being a member of or delegate to Con-

gress or Resident Commissioner, either before or after he has qualified . . . directly or indirectly receives or agrees to receive, any compensation for any services rendered or to be rendered, either by himself or another, in relation to any proceeding, contract, claim, controversy, charge, accusation, arrest, or other matter in which the United States is a party or directly or indirectly interested, before any department, agency, court martial, officer or any civil, military or naval commission," shall be guilty of an offense against the United States."

Now, that is the essential part of the statute.

Now, if you will turn to the substantive counts on page 18. You need not read them. This is just so you get the feel of it when you look at it in the jury room.

The second count charges that on or about April 3, 1961, in the District of Maryland, Johnson, being then a Member of Congress, acting jointly and in concert with and aided and abetted by the other defendants, unlawfully, wilfully and corruptly received, directly or indirectly from Edlin and Robinson compensation in the amount of $800, to-wit, the proceeds of a bank check drawn by Robinson on a certain bank in Miami, Florida, which was "deposited in, credited to and final payment in the sum of $800 made thereon to the account of" Johnson at the Exchange and Savings Bank, Berlin, Maryland, the date and place of the receipt of said check by Johnson being to the Grand Jurors unknown, for services rendered and to be rendered by Johnson before the Department of Justice in relation to the proceeding, charge or accusation referred to in the first count. Reference is made to 18 U.S.C.A. Sections 281 and 282. Section 281 is the section I just told you about and I will tell you about 2 in a moment.

Now, then, the second count which charges substantially what I have told you is on pages 18 and 19. And then the third count is on pages 20 and 21. They are all about two pages long, and they are all very similar except as to the

amount of the check and the date of the check and whose check it was and where the check was paid.

The third, fourth, fifth and sixth counts are similar to the second count except for dates and amounts and the allegation that the checks referred to in those four counts were drawn by one of the alleged co-conspirators, that is, one of the building and loan associations, on the National Bank of Bethesda-Chevy Chase, Bethesda, Maryland.

The 7th and 8th counts are similar to the second count, that is, it was one of Robinson's checks, except for dates and amounts of the checks.

Let me repeat what I have said again, that to prove these counts you must consider the evidence and not what is alleged in the indictment.

I am not reading this indictment to you as any indication that I think it has been or has not been proved one way or the other but this is so you will understand the charge. You will decide whether it has been proved from the evidence.

You will note that the charge is that Johnson violated this statute and that the other defendants aided and abetted him in its violation. The defendant Boykin is not charged with a direct violation of this statute, only with aiding and abetting Johnson. Edlin and Robinson are also charged as aiders and abettors.

Now, I will talk to you about the aiders and abettors and give you instructions which apply to Boykin, Edlin and Robinson and that part of it in a few minutes.

First I want to talk to you about Johnson, the test which you shall apply in determining whether or not Johnson violated this particular statute. In order to find any of the defendants guilty under any of the 7 counts, you must find with respect to such count four elements, which I will discuss separately:

First, that the defendant Johnson was a Member of Congress at the time he is alleged to have performed the

services referred to in that count. The defendants do not dispute that Johnson was a Member of Congress during the times mentioned in each of the counts 2 through 8.

Second, you must find that there was before the Department of Justice, the proceeding, charge and accusation referred to in each of the counts and that the government was a party or directly interested in that proceeding, charge or accusation. A sentence is left out of the copy, as a result of what I have ruled as a matter of law. There is no serious question for the jury to decide that there was a charge and accusation pending before the Department. I have, in effect, ruled that under the evidence which is not disputed in the case, as a matter of law, I have taken the responsibility of making that decision. I think that is the intention of all counsel.

Now, that brings us to the two points as to which there is a real dispute to be decided by you with respect to all of the defendants including Johnson in this first count.

The third element which you must find, you must find that the Defendant Johnson rendered services before the Department of Justice within the meaning of that term as it is used in the statute with respect to which I will give you further instructions.

Fourth, you must find that Johnson received compensation for those services. I will instruct you as to the meaning of the word "compensation" as it is used in the statute.

You must also find that the compensation was received in the District of Maryland, but with respect to whether the compensation was received in the District of Maryland, that is, whether those checks were received in the District of Maryland, I instruct you that, in view of certain rulings of law which the Court has made, the only question for you to decide on this issue is whether the several checks were deposited in the State of Maryland. I do not understand that any of the defendants dispute the fact that the checks

were deposited in a Maryland bank, and I have taken the responsibility of making certain rulings which washed out the question of where the collection was made.

A Congressman—I am coming in just a moment to time and services and will define compensation, but first I want to give you just a general word. A Congressman, whether he is a lawyer or not, may talk to the officials of the Department of Justice and urge them to drop a charge against a constituent or some other person without violating Section 281, the section upon which counts 2 to 8 are founded, so long as he does not receive compensation for so doing. Section 281 is violated only when the services are rendered for compensation.

So, the question is, did Congressman Johnson render any such services for compensation?

The term "services" as used in the statute and indictment is broad enough to embrace any conscious and wilful effort and act to aid, assist and promote the interest of the party before a governmental department or agency.

However, over the years an exception has grown up and been legally recognized, namely, that a Congressman who is a lawyer may represent a defendant in the trial of a criminal case, even though he receives compensation for his services.

I instruct you that this exception applies in the following circumstances and subject to the following conditions, so far as the issues in this case are concerned.

What I am now telling you is the law of the case. This is in some respects a novel proposition and I am instructing you on the law for the purposes of this case you are bound to accept what I say to you is the law on this subject. But it is for you absolutely without any intimation or suggestion from me to find and determine what the facts are.

I instruct you that this exception applies in the following circumstances and subject to the following conditions, so far as the issues in this case are concerned.

A Congressman who has been employed as a lawyer to represent a defendant in a criminal case may do anything necessary and proper to be done in the conduct of the defense of the criminal case. He may confer with the United States Attorney or the officials of the Department of Justice, so long as he discloses to the Department of Justice the fact that he is appearing as an attorney for one or more of the defendants in the criminal case, and not in his capacity as a Congressman and secondly, so long as he does not attempt to bring his influence as a Congressman to bear on the Department of Justice to secure a dismissal or postponement of the case. Such disclosure, as I mentioned is the first requirement of the exception. It may be made by formally entering his appearance in a criminal case. It is not disputed that Johnson did not enter his appearance in that case, or these disclosures may be made by telling the officials of the Department of Justice that he is visiting them as an attorney for one or more of the defendants in the criminal case, and not as a disinterested Congressman.

The purpose of the statute is plain. It was aimed to prevent Congressmen, officers and employees of the United States Government from using the weight of their positions or their influence in connection with matters which were to be determined before any department, agency, court martial, officer or commission, and was to assist in insuring the integrity of such departmental determination. The statute is designed to insure undivided loyalty on the part of the government officials to the interest of the United States. The statute prohibits those holding governmental positions from using the prestige and influence of their official status for the benefit of private parties for compensation.

If you find from the evidence that Johnson was appearing before the Department of Justice as an attorney for Edlin or First Colony or both of them in the criminal case then pending against them and disclosed to the officials of the Department of Justice that he was so appearing or visiting them rather than as a Congressman with no personal or

pecuniary interest in the matter, then, in that event, it would not be a violation of section 281 for Johnson to have requested a review of the indictment by the Department nor to offer Edlin's testimony against Hoffa in exchange for a dismissal of the indictment against Edlin and First Colony, so long as he did not attempt to bring the influence of his office as a Congressman to bear on the officials of the Department to secure a dismissal of the indictment or postponement of the case.

But if you find that Johnson did bring, or attempted to bring his influence as a Congressman to bear on the Department of Justice in an effort to secure a dismissal or postponement of the criminal case against Edlin and First Colony, and if you further find that he received compensation for so doing, then such action would constitute a violation of Section 281.

The fourth element to which I referred—I said there were two in dispute, the third and fourth. There is a dispute before you and there is a legal dispute before me. The fourth element to which I referred a few minutes ago which the Government must prove is that Johnson received compensation for the services which he rendered. It is only when the services referred to in Section 281 are rendered for compensation that there is a violation of Section 281. I have just instructed you with respect to the meaning of the term "services," as used in Section 281, and the extent of the exception which is allowed to a lawyer with respect thereto. If you find—that is a lawyer who is a Congressman—where he is not a Congressman and is not employed by the Government, of course it is not involved.

If you find that Johnson rendered such services before the Department and that the services do not come within the exception, then you must consider whether Johnson received compensation for those services, directly or indirectly.

The several counts 2 to 8, inclusive, charge the receipt

of specific checks, and in ruling on counts 2 through 8 you should consider each check separately.

With respect to each check, you must consider whether each such check was given in whole or in substantial part for services rendered by Johnson before the Department of Justice, within the meaning of Section 281 as I have construed that section to you. "Substantial part" does not mean any particular percentage of the check, but a significant part as distinguished from an insignificant or inconsequential part. The question is whether services rendered by Johnson, not covered by the exception which I have described to you, constituted a substantial part of the consideration for which each such check was issued.

Regardless of any opinion you may have as to what the law ought to be, it would be a violation of your duty to base a verdict upon any view of the law other than that which I give you in this charge in this case at this time, whether you think the law should be more strict or less strict. The statute being the law of the United States it is to be enforced like any other law of the nation.

It is not improper for a member of Congress to carry on private business for profit during his term in office so long as he does not violate any criminal statute. Nor is it improper for a member of Congress who is a lawyer to practice his profession for gain during his term of office so long as he does not violate any statute.

There is evidence in this case from which you may find that, while a member of Congress, Johnson, as an attorney, rendered legal services from September, 1960, until May, 1961, on behalf of First Continental Savings and Loan Association and First Colony Savings and Loan Association and other corporations, and from May, 1961 until October, 1961, on behalf of Charles County Land Company and Leisure City Land Company in connection with legal matters unrelated to visits to the Department of Justice, it was not a violation of federal law for Johnson, as an attorney,

to render such legal services for compensation although he was at the time a member of Congress.

If you find that the check referred to in Count 2 was received by Johnson as compensation for bona fide legal services rendered by him to the savings and loan associations and later to the land companies, and not in whole or in substantial part for services rendered by Johnson before the Department of Justice, then you should find Johnson not guilty on the second count. The same instruction applies with respect to each of counts 3 to 8, as well as to count 2, even though the jury may consider the payments to Johnson to have been large, or even excessive, for the legal work which he did, but in considering whether or not they were for bona fide legal services, the fair value of such services may be considered.

If the jury find that Johnson did not knowingly receive the check of Robinson dated March 31, 1961 in the sum of $800, or any substantial part thereof, as compensation for services rendered or to be rendered before the Department of Justice, the jury must return a verdict as to him of not guilty on the second count.

The same rule applies to each of counts 3 through 8.

On the other hand, if you find that all or a substantial part of the $800 check referred to in the second count was knowingly received by Johnson as compensation for services rendered or to be rendered before the Department of Justice, and either (1) that Johnson did not disclose to the Department that he was appearing as attorney for one or more of the defendants in the pending criminal case and not in his capacity as a Congressman, I think I will say "disinterested Congressman" there because I think that was the correction that was made up above, and (2) that Johnson brought to bear his influence as a Congressman on the officials of the Department of Justice in an effort to secure a dismissal of the criminal case, then you should find the defendant Johnson guilty.

To constitute the offense in question, it would not be necessary that Johnson both fail to disclose his appearance as attorney and also use his influence as a Congressman; either would be sufficient.

The same rule applies as to each of counts 3 through 8.

Now, I think this is the point to clear up something that took us sometime while you were out. The defendants contend that Mr. Tydings, in his argument to you this morning stated the rule of law substantially differently from the way I have given it to you. Mr. Tydings takes the position that he did not state it substantially differently from the way I did. He did use somewhat different language, and it is for the jury to recall what, if anything, he said.

However, what I want to say to you is that if Mr. Tydings did misstate or state in any different way from the way that I have stated it as to which I do not intimate or express any opinion, then I instruct you, if Mr. Tydings said anything different from what I said, you should disregard what Mr. Tydings said and follow the instructions of law that I have given you.

We come now down to the aiders and abettors and this is the last major section of the charge.

In a case where two or more persons are charged with the commission of a crime, the guilt of the accused may be established without proof that all the defendants did every act constituting the offense.

The applicable statute provides: "Whoever commits an offense against the United States, or wilfully aids, abets, counsels, commands, induces or procures its commission, is punishable as a principal."

In order to aid and abet another to commit a crime it is necessary that a defendant wilfully associate himself in some way with the criminal venture; and that he wilfully participates in it as in something he wishes to bring about; and that he wilfully seeks by some action of his to make it succeed.

As to each of the counts numbered two through eight, unless the Government has proved beyond a reasonable doubt that defendant Johnson received compensation as charged in the said count for services rendered and to be rendered before the Department of Justice, all defendants must be acquitted on said counts.

If Defendant Boykin believed in good faith two things: (1) that defendant Johnson was appearing at the Department of Justice as counsel for any person indicted in criminal case No. 25038 for a lawful purpose—that is to do what a lawyer might reasonably do in the defense of a criminal case and not to bring his Congressional influence to bear on the Department of Justice to secure favorable decisions from the Department in connection with a possible dismissal of the case—and (2) further believed that this fact was known to officials of the Department of Justice, then if you so find, Boykin cannot be held to have aided and abetted Johnson in the crimes charged in counts 2 through 8 of the indictment.

The same rule applies to Edlin and to Robinson.

In other words, even if the Government has proved beyond a reasonable doubt that defendant Johnson, in connection with the services alleged in counts 2 through 8, acted in a capacity other than as counsel for a party indicted in Criminal Case 25038, or failed to disclose to the Department of Justice that he was acting as counsel for such a party, defendant Boykin may not be convicted on any of said counts, if, through a reasonable mistake of fact, he believed in good faith, that Johnson was acting as counsel for one or more of the parties in Criminal Case No. 25038, and that the Department was aware that Johnson was acting in such capacity and that Johnson was not attempting to bring his Congressional influence to bear on the Department of Justice to secure a favorable action in the criminal case.

The same rule applies to Edlin and Robinson.

Belief is a state of mind and is to be determined as any other fact. With respect to the defendants Boykin, Edlin

and Robinson, you may further consider whether or not there existed a reasonable, even if mistaken, basis for such belief.

Even if you find beyond a reasonable doubt that defendant Johnson received compensation as charged in counts 2 through 8 for the services therein alleged and that defendant Boykin knew of the receipt of the payments in question, defendant Boykin is innocent of the crimes charged in the said counts if he believed, in good faith, the said payments to be compensation for services other than those alleged in the said counts.

The principles announced in this instruction also apply to Edlin and Robinsou.

You must bring a separate verdict with respect to each defendant on each of the 8 counts. The verdict must represent the considered judgment of each juror. Your verdict must be unanimous with respect to a particular defendant on a particular count.

It is your duty, as jurors, to consult with one another and to deliberate with a view to reaching an agreement, if you can do so without violence to individual judgment. Each of you must decide the case for yourself, but do so only after an impartial consideration of the evidence with your fellow jurors. In the course of your deliberations, do not hesitate to re-examine your own views and change your opinion if you are convinced it is erroneous. But do not surrender your honest conviction as to the weight or effect of evidence solely because of the opinion of your fellow jurors, or for the mere purpose of returning a verdict.

You are not partisans. You are judges—judges of the facts. Your sole interest is to ascertain the truth from the evidence in the case.

The attitude and conduct of jurors at the outset of their deliberations are matters of considerable importance. It is unbecoming for a juror upon entering the jury room to voice an emphatic expression of his opinion on the case or

to announce his determination to stand for a certain verdict and nothing else. When one does that at the outset, his sense of pride may cause him to hesitate to recede from an announced position even though he may afterwards be convinced that it is erroneous.

I give that charge because it is in the book to be given. Our jurors do not behave that way and I always feel a little bit embarrassed in making any implication of that nature.

Remember that you are not partisans or advocates in this matter but you are judges. The accused and the public expect that you will carefully and impartially consider all the evidence, follow the law as stated by the court and reach just verdict as to each defendant.

Let me remind you again that nothing I have said to you is intended to intimate any opinion as to what your verdicts should be.

As I have told you, you must bring in a separate verdict with respect to each defendant on each of the eight counts.

A separate crime is charged against each of the defendants in each count of the indictment. On any particular count your verdicts may be the same or different with respect to the several defendants. And, as to any particular defendant, your verdicts may be the same or different on the several counts.

With respect to counts 2 to 8, you cannot find any of the defendants guilty on any of those counts unless you have first found the defendant Johnson guilty on that count. That is because the other defendants are charged as having aided and abetted Johnson in the commission of the offenses charged.

If you find the defendant Johnson guilty on one of the substantive counts, you may find some or all of the other defendants also guilty under that count, or you may find some or all of the other defendants not guilty under such counts.

If these instructions are not clear to you, I will be glad to try to clear up anything that you do not understand.

If it becomes necessary, during your deliberations to communicate with the Court, you may send a note by the bailiff. Never attempt to communicate with the Court except in writing. And, bear in mind always that you are not to reveal to the Court or to any person how the jury stands, numerically or otherwise, on the question of the guilt or innocence of any defendant, until after you have reached an unanimous verdict.

Now, members of the jury, if 50 minutes will be enough lunch for you, I suggest that you go out and come back to this room at 2:30. You will find the room packed and jammed, not with people who have been here before, all of whom must be asked to leave except the lawyers who are here in the case because this room will be filled with the people who are seeking naturalization. We have a naturalization ceremony which will start here at 2:30 and you will come in and sit here, and you will do this just before the naturalization ceremony. After the naturalization people come in, the public is not excluded but the people who are to be naturalized have the first right to come into the room, and until the naturalization group has completed, I will ask the people who are coming here, to come back at 2:30 to wait until the naturalization people have come in.

There will be some seats left, I am sure, plenty, of course. for counsel and all the members of the family—there will be plenty of room for everyone. But the public generally will have to give first place to the naturalization.

You are excused until half past two. Leave the copies of the indictment. You are not to discuss this with anyone, even among yourselves.

(The trial was recessed at 1:40 p.m. until 2:30 p.m.).

[Tr. 6307-6335]:

EXCEPTIONS TO CHARGE

In Chambers 2:15 p.m.

(The Court) All right, Mr. Doub.

(Mr. Doub) This is a very difficult charge to except to, Your Honor.

I wish to except to the failure of Your Honor to grant Mr. Johnson's request under the heading "General" with respect to circumstantial evidence."

(The Court) Denied on the grounds of Holland vs. United States.

(Mr. Doub) And I except to the failure of Your Honor to grant our instruction—

(The Court) I will grant the instruction in Judge Matthes' Instruction on Circumstantial Evidence which I understand you do not want.

(Mr. Doub) Do you have it there, Your Honor? Because I have not rejected it at all.

(The Court) Off the record.

(Discussion was off the record.)

(The Court) Go ahead and try the next one.

(Mr. Doub) I except to Your Honor's failure to instruct as to our request on the substantive Counts 1, 2, 3, 4, 5, 6, 7, and 11.

(The Court) I do not understand. To instruct what?

(Mr. Doub) I am in effect, renewing—

(The Court) Are you renewing all your prayers? Let me see which ones they are.

Off the record.

(The Court) Which ones, Mr. Doub?

Circumstantial evidence I am denying.

(Mr. Doub) Under "Substantive Counts." I believe there should be the instructions in conformity with our request as to 1, 2, 3 and so on, relating to each count.

(The Court) I did give them to you.

(Mr. Doub) Is that in General Terms?

(The Court) I gave them to you as to the second count and then stated the same thing applies to each of the other counts and then I understood you had told me last Thursday, or last Friday that it was satisfactory if I did that. I did exactly what you said, or tried to.

(Mr. Doub) I will withdraw that, Your Honor, if that is embodied there.

I renew and except to Your Honor's failure to include under the substantive counts our request No. 11.

(The Court) It is the sham and pretense. I deny it. There was no charge of sham and pretense as such and it was not argued that it was sham and pretense by the Government in its closing arguments.

(Mr. Doub) They made the point in the opening statement and I think there is a reasonable inference that that was argued, Your Honor.

(Mr. Tydings) Your Honor, my recollection is that it was agreed by Mr. Doub and if I did not argue it in the final argument that there would not be any issue raised on the point.

(Mr. Doub) I do not believe that.

(Mr. Tydings) Mr. Robinson read it.

(Mr. Williams) What is that?

(Mr. Tydings) His prayer that he is requesting now. That sham and pretense business.

(The Court) I deny it, because there is no requirement of the Government to prove sham and pretense and John-

son is not entitled to a verdict of not guilty by virtue of the failure of the Government to prove sham and pretense because he can be found guilty on some evidence in the case.

All right. Denied.

(Mr. Doub) I would like to renew instruction No. 12 under the substantive counts, Your Honor.

(The Court) I think I gave the substance of it because I said that if the check was received for this, and now I do not know where I can find it. It seems to me that I had given the substance of it and it is a question of whether he received compensation for the services and whether these checks amounted to compensation in whole or in part.

I tell you, if you find that the check—in Count 2—the check received in Count 2 was received by Johnson as compensation for bona fide legal services rendered by him to the savings and loan associations and later the land companies and not in whole or substantial part for services rendered by Johnson before the Department of Justice, then you should find Johnson not guilty on the second count.

"The same instruction applies with respect to each of counts 3 to 8, as well as to Count 2, even though the jury may consider the payments to Johnson to have been large, or even excessive, for the legal work which he did, but in considering whether or not they were for bona fide legal services, the fair value of such services may be considered."

(Mr. Doub) I would like to still press No. 12.

(The Court) Denied unless the Government concedes it.

(Mr. Tydings) No.

(Mr. Doub) Then I would like to renew request No. 14 on the "Substantive Counts" which I conceded, however, at a prior hearing that I had no authority for it.

(The Court) Denied.

(Mr. Doub) In order to maintain the motions I made to dismiss the first count of the indictment, Your Honor, on the ground that there were the objectives as stated in the Count which were too vague and improper, I would like to except to Your Honor's instruction on page 14 of the charge where you stated that, it was paragraph 15 and not paragraph 14—which contains the purposes and objectives of the conspiracy.

(The Court) I charged almost verbatim I think in the language of my opinion.

(Mr. Doub) Yes, you did.

(The Court) I will deny the motion because I adhere to my ruling, obviously, on the motion.

(Mr. Doub) It merely is a formal point.

On page 24 you instructed the jury that, if they found there were two conspiracies, Mr. Boykin should be acquitted. I except to that on the ground that, instead the charges should have been—

(Mr. Williams) He did not say that. I wish he had said that. I have been trying to get the Judge to say that.

(The Court) What Mr. Boykin wanted me to say, yes. The Government considered whether it would concede it or not and decided they would not concede it and I said I would rule in favor of the Government unless the Government conceded it.

(Mr. Tydings) And we do not concede.

(Mr. Doub) Well, in any event, I am submitting that you should charge that if the jury finds there were two conspiracies and not one, then all defendants should be acquitted.

(The Court) Denied.

If each defendant wishes to adopt that.

(Mr. Robinson) I wish to join in that.

(Mr. Genn) Right at this point, Your Honor, I want to adopt that point of Mr. Doub's and also the previous one with reference to the paragraphs 14 and 15 and those that follow.

(The Court) And so would you, Mr. Robinson.

(Mr. Robinson) The same for Mr. Robinson.

(The Court) All right. Denied as to all three.

(Mr. Genn) I would like to add also that I think—

(The Court) On the same point?

(Mr. Genn) On the same point, I think also that the granting of this in the circumstances is prejudicial to the other defendants because it suggests or seems to suggest the possibility of a true conspiracy as a ground why the Court should dismiss it.

(The Court) Denied.

(Mr. Ungar) Your Honor, for the record on behalf of the defendant Boykin we also adhere to Mr. Doub's exception as to the relation between paragraphs fourteen and fifteen of the indictment and as to the duplicity point we want to state our exception more specifically when it comes to us.

(The Court) Naturally, because you have a different point.

(Mr. Doub) On page 34 of the charge, Your Honor, I wish to except to the last paragraph explaining the term "services" as used in the statute and indictment on the ground that the definition is too broad.

(The Court) Well, tell me how it should be.

(Mr. Doub) In scope. I read it "Services broad enough to embrace any conscious or wilful effort to promote the interests before a governmental department or agency."

(The Court) I had a much longer charge on services and that is the correction I made at the last minute, was to cut down the lengthy one which would have been more damaging to you than this on the theory that it did not really make any difference and that it was the exception that counted. If you will rewrite this and, while the other people are giving their exceptions, and can say it any better, I will be glad to give it. Because I immediately say the exception, that every other instruction deals with what is covered by the exception.

(Mr. Doub) I will give it some thought, Your Honor. I am sure it is more difficult to do than it is to except to it.

(The Court) All right.

(Mr. Doub) On page 36 I wish to except to the generalized statement that the statute involved in the substantive counts "prohibits those holding Governmental positions from using the prestige and influence of their official status for the benefit of private parties."

(The Court) I added "for compensation." I read it to the jury and added the words "for compensation" and I wrote it in in pencil. I stopped and wrote in "for compensation." I think the other defendants have it.

(Mr. Robinson) I have it written in on mine.

(Mr. Doub) On pages 38 and 42, Your Honor instructed the jury that the Government need only show that a check specified in the substantive counts was given in whole or in substantial part for services rendered by Johnson before the Department of Justice.

I except to that on the ground that under the explicit terms of the indictment, the government will prove that each check in full was received for the alleged services rendered. That was the postion I took.

(The Court) Denied and the Government says—

(Mr. Robinson) I wish to join that and save time.

(Mr. Genn) This defendant joins in that.

(The Court) All defendants may have an exception to that.

The Government has a perfectly useful exception. I did not say "any part" instead of "substantial."

(Mr. Tydings) Yes. Which language, we might add, has been approved by the Supreme Court.

(The Court) Go ahead.

(Mr. Doub) I think that is all I have, Your Honor.

(The Court) Mr. Williams.

(Mr. Williams) Your Honor, we, of course, except to the charge on the conspiracy count in so far as it relates to Mr. Boykin. It is our position as we have stated to you heretofore that in fact there were two conspiracies charged on the first count of the indictment that Mr. Boykin should be acquitted.

We submit request No. 2 Boykin's No 2 covered that. That was denied.

(The Court) And an exception will be noted.

(Mr. Williams) Yes, sir. Also, Your Honor, we, of course, take the position that it was necessary for the Government to have proven that each check alleged in each of the substantive counts must have been for services rendered at the Department of Justice by Mr. Johnson and that the checks were given in whole for that reason.

(The Court) Well, that is substantially the same point that has been made and all defendants have exceptions on that.

(Mr. Williams) Yes, and Your Honor, we would, of course, renew our request for prayers that we have heretofore submitted except for the one that we withdrew which was No. 9. Some of them were substantially covered in the charge. Some of them are duplicates but in so far as any

was not covered by the charge and in so far as any is not duplicated—

(The Court) I want you to call my attention to the particular point that you think I have omitted from the charge and if you have not gotten them handy, let Mr. Edlin go ahead and you can call them to my attention.

(Mr. Williams) I have got them.

Your Honor, our requested instructions with respect to the exceptions differ from the way Your Honor finally ruled on them. So, in so far as our prayers Nos. 4, 5, 6, 7, and 8 relate to the exception to the law as we understand it under the substantive counts, we except to their denial.

(The Court) Exception granted, of course.

(Mr. Williams) Yes.

Also, Your Honor, we except to the denial of our prayers relating to the substantive counts in so far as they deal with compensation because it is our theory, as we have said twice now, that all of the compensation must have been given for the Department of Justice visits and because that was our theory and the Court took a different postion, there was a denial of our requested instruction 12.

(The Court) I think your previous exception covers it.

(Mr. Williams) 12 and 13. And we except to the denial of our instructions on venue. You understand our instructions on venue as we have urged it in motions for dismissal and motion for acquittal under Rule 29 and we contend there is no venue on Mr. Boykin.

(The Court) Exception granted.

(Mr. Doub) I wish to join in that.

(The Court) All defendants may have exceptions to that. If I adhere to those rulings, there is no objection to the way I worded it.

(Mr. Williams) Then, Your Honor, you were going to

give me fifteen, Your Honor, yesterday but the way you were going to give it to me I did not want it.

(The Court) That is right. No, that is denied. Your fifteen is denied. It is denied as requested.

(Mr. Williams) No. 16 was that broad instruction which covered all counts in so far as Defendant Boykin is concerned and we except to the denial of that.

(The Court) I grant you the exception but I think that I have all of the ideas in the charge. Not because I disagree with the principles in your prayer, but I think they were already given.

(Mr. Genn) Your Honor, I would also like to renew the previous motions and objections and instructions that were offered as framed or their substance. You have granted, I think, in part or in substance 1 to 12 of the instructions of the remaining requests except those that I have withdrawn which I think are 10, 26 and 31. I would simply renew the request.

(The Court) No. 10 was withdrawn, my note says.

(Mr. Genn) And 26 was withdrawn, and 31 and I think the rest simply stated this Defendant's theory of this case.

(The Court) Does the Government feel that any of those prayers ought to be granted or anything more ought to be said to avoid the very broad exception which I am allowing Mr. Edlin.

(Mr. Genn) Now, in addition to that I wish to go into just one or two matters. I think on page 21, where you deny the language—

(The Court) Just let me be clear. I think Mr. Boykin is not here but they understood they had the right to be here.

(Mr. Genn) That is correct, Your Honor.

Now, the charges under Section 371 are being defined and the Court spoke on Page 21 of the copy of this charge that we have been given to follow, stating that in defining de-

frauding of the United States it is not limited to merely money and pecuniary value, and then the next sentence goes on to say:

> "It also comprehends the right of the Government not to be defrauded of the unbiased, independent, faithful, loyal services of its employees, including Congressmen, and that its legitimate official action shall not be defeated by misrepresentation, chicanery, overreaching, trickery, or by means that are dishonest."

I think in the context of this case that that is incorrect, because I think a Congressman has a right to be biased but in the form of a conspiracy count, I think that would be an incorrect suggestion and; so for that reason I would except to that portion of it.

(The Court) I think, by the time I put in "misrepresentation, chicanery, overreaching and trickery, or by means that are dishonest," I covered that the way the Supreme Court and other courts have covered it and so, your exception is allowed and your request for modification is denied.

(Mr. Genn) I think with respect to that definition of a number of items, misrepresentations, concealment, overreaching—I think overreaching again just as a form without application to this particular case and I do not know whether the jury would be confused by that as something "inherently dishonest" means.

So, I just except to that, Your Honor.

And then there is one other—or two others. That is with reference to page 28, the paragraph:

> "A person who, without knowledge of the existence of a conspiracy, happens to act in a way which furthers an object"—

In addition to the previous objection which Mr. Doub made, and which I have made in regard to two possible conspiracies, the Court used the phrase "for the purpose of promoting the interests of defendant Edlin or his savings and loan

associations, and even if you further found that the Defendant Boykin acted in 1961 in a way to promote the interests, you will return a verdict of not guilty."

Again I think it does not charge or state the intent to defraud Governmental functions and I think that it is not accurate. It is not the furthering. That is an object but it is not the defrauding of a governmental function.

(The Court) I think Mr. Robinson has asked for some modification of that. I will be glad to say again, I will define the conspiracy again, if you want me to.

(Mr. Williams) No, no.

(The Court) I will grant it.

If you feel that this instruction says that a conspiracy was formed for the purpose of doing this—it is taken from Mr. Williams' language and not mine. I accepted it. Now, if you except to that and want a further re-definition of a conspiracy, I will be glad to give it.

(Mr. Genn) I do not know what you intend to say. I feel the Court erred and would be underscoring it at this time.

(The Court) If you feel I erred, I shall be glad to correct it. Mr. Robinson has asked me to correct it so far as he is concerned by putting in 1960 and 1961.

I am going to give the instruction again at Mr. Robinson's request putting in for him 1960 and 1961. And Mr. Robinson wants to be sure.

(Mr. Genn) Your Honor, I am going to object to that. I do not see the basis of it. What do you intend to say?

(The Court) Mr. Robinson wants me to say this. If you do not want me to say it, I will not say it and if you say that that instruction which Mr. Boykin asked for and which Mr. Robinson has now asked for misstates the conspiracy, because I do not in that instruction repeat what I said about the nature of the conspiracy, I will agree that you may have something to your point and if you wish me to restate

it again, I will. I would really think that the defendants might be as well off by just letting things stand as they are because even without my repeating what Mr. Robinson has asked for, if no other instructions are to be given I think there is some question of whether you want that in again with the corrected date. Now, if you wish me to—

(Mr. Genn) I think this instruction that you have handed to me which is not, of course, of record yet is highly prejudicial to this defendant—

(The Court) Mr. Robinson will probably withdraw it if there are no other additional instructions being given, I imagine. If you think that that particular paragraph, of course, which you are taking out of context, is prejudicial to you, I will correct it in a way that will cure the prejudice if you want.

I do not think it is prejudicial because I think it was given in context with a good many statements with respect to the conspiracy which have not been claimed to be unfair by anyone yet. If you want them repeated, I will give them again.

(Mr. Genn) Well, Your Honor, I do not wish to pursue it. I simply want to find out what you would, in effect, say. If it is going to be lengthy or repetitious of what you said before, I think there is more harm than good. If it is going to be a short statement that you have to find defrauding of the governmental functions then I think that that may suffice.

(The Court) In one of the ways specified.

(Mr. Genn) I think that should be sufficient. Otherwise I will withdraw the objection.

(The Court) I think you had better—

(Mr. Tydings) For the record—

(Mr. Williams) I join the U.S. Attorney. I think you might hurt your client more than you will help him by what you say here.

(Mr. Genn) I think that is nice to say but we have to preserve the record.

(Mr. Williams) It is just going to put a spotlight on something when you say "any person who joins." You are a person, right.

(Mr. Robinson) Yes.

(The Court) Didn't I say the same principles. Which page is that? What page is it?

(Mr. Robinson) I do not know which page it is. Twenty, I think it was.

(The Court) I may have missed saying there what I have said to everyone, the same instructions apply to Mr. Edlin and Mr. Robinson. You did not ask for that because where there was a request from you people for that I did put in that—

(Mr. Robinson) I concede that not having realized the possibilities until I saw it typed up.

(The Court) I should have said "the same principle applies to you" which would have taken care of it.

(Mr. Genn) Your Honor, I suppose it is clear based on the previous motions on the theory of the Court based on the substantive counts particularly; we have that exception, of course.

(The Court) That is right.

(Mr. Genn) I think more specifically in addition to that when it states at 35: "A Congressman has been employed as a lawyer to represent a defendant in a criminal case and to do anything necessary and proper to be done in the conduct of the defense of the criminal case."

(The Court) What page?

(Mr. Genn) That is on page 35.

It seems to me that the Court is implying that whatever he does at the Department must be in the conduct of the

defense and I am not certain that that was what the Court intended.

If it did, of course I would except even further to that. I do not think the going there merely had to be in the conduct of the defense. Underscoring the words "in the conduct of."

(The Court) I thought we changed the word "conduct." I thought that was changed at the bench. Isn't that what was changed at the bench to make it read more in accordance with what the defendant wanted and to answer Mr. Tydings' suggestion of the preparation of the defense? I think that takes care of it.

(Mr. Weiner) It could not have been more explicit with the "swapping" and all the rest of it. It seems to me in reference to going past the exception, I am not clear the Court's instruction indicated the element of compensation with reference to the exception but to go to page 42, I think it says he is appearing as an attorney for one or more of the defendants in the criminal case, pending criminal case and not in his capacity as a Congressman, disinterested Congressman, or (2) that Johnson brought to bear his influence as a Congressman on the officials of the Department of Justice in an effort to secure a dismissal of the criminal case, then you should find the defendant Johnson guilty."

I think it had to be clear that if he were bringing to bear his influence it had to be as an interested Congressman using undue influence in the case. I do not think that that is clear.

(The Court) I think the instruction is right on page 42 and I granted you the exception to the instruction.

(Mr. Robinson) The only thing further I would have I would withdraw the requested instruction but at the time when the instructions were submitted, I believe I adopted with the Court the instructions 4, 5, 6, 7, 8 of Mr. Boykin's.

(The Court) I will give you every exception that Mr. Edlin has and every one that Mr. Boykin has that could possibly apply to you. Is that all right?

(Mr. Robinson) That is about as far as you could go, I reckon.

(Mr. Doub) When here I excepted to Your Honor's definition of "services rendered" as contained in the statute, Your Honor said you would be interested in having me suggest a better definition and I would like to urge upon you the acceptance or renewal of my request No. 15 under substantive counts.

(The Court) All right. Granted, if you want it.

(Mr. Genn) May we see it?

(Mr. Williams) George, you do not want that now.

(The Court) I will grant it if you ask for it. I will read it.

(Mr. Williams) I think the definition of "Services" in the first place, I do not think that is an issue in this case, to tell you the truth.

(The Court) If Mr. Doub wants that, I will grant it.

(The following proceedings occurred in open court with the jury present.)

(The Court) Have you decided to request that one?

(Mr. Doub) No.

(The Court) Members of the Jury, counsel for the defense have been spending the past forty minutes trying to convince me that I have made some mistakes in my charge. I was only convinced I was on the fence on one of them and they decided not to press that one. Therefore, you will now be allowed to retire and begin your deliberations on the case under the instructions as they have been given to you as soon as the bailiff has been sworn and Mrs. Zielinski will give you the indictment in the case.

If you feel that you need any of the exhibits in the case, you may send out and say the exhibits you want and I will discuss with counsel at the appropriate time whether they want to handle the matter on a point by point basis or whether they want to adopt some sort of a general rule.

Now, I want to dismiss the alternate jurors in the case. You certainly have been faithful in your attendance and it is a matter of regret to the court that you will not be able to take an active participation in the conclusion unless some one of the jurors feels that they are not well and would not be able to see through to the end, I think we should go ahead with this. There have been 12 jurors so the three alternates are now discharged from further consideration of the case.

Now, would you swear the bailiff and then—

(The Clerk) We are going to have two bailiffs.

(The two bailiffs were duly sworn.)

(The Court) I think it will be well to give them a pad and pencil and papers when they are sent out. Now, if you send notes out to me for one reason and I send them back in with any instructions, your foreman should preserve them all and hand them in when you have reached your conclusions.

(The Clerk) The jurors may retire to their room to deliberate.

(At 2:55 p.m. the jury retired to consider its verdict.)

(The Court) The Foreman of the jury has asked if he may have the instructions of the Court on the legal matters. Suppose you go out, Mr. Menzies. I think you ought not to see who does want to and who does not want to. What you are asking is the charge. I will hear from counsel.

We have not discussed that yet and I will let you know at once whether you may have it or not.

(The foreman left the court room.)

(The Court) Is there any objection from any of government counsel, or counsel for the Defendants to the entire charge being sent to the jury? I think there is only the slightest difference in what I wrote. You all followed what I wrote and what I read. The main thing is that in connection with the various paragraphs of the indictment which they have before them which are referred to in each paragraph—since there has been a request, it has not been the custom in this Court to do it simply because, as a physical matter, it is ordinarily not possible to have it written up. In the days when the charge was given before the arguments of counsel—In the days when Judge Soper was here— it was his regular practice that the reporter would write it up during the argument of counsel and he always gave his charge to the jury at that time.

When the charge is given at the end, ordinarily it is not prepared with any such care as this and I may say this is the first time that the jury has ever asked for it.

(Mr. Tydings) If Your Honor please, the Government has no objection. If the jury wants the instructions on the law, they should have them.

(Mr. Genn) Your Honor, speaking for one defendant, Mr. Edlin, I do not think that the Court should submit the instructions. I think that there is a tendency when that is done in that form to pick out various portions of it and if there is particular concern that the jury may have as to one item, I believe that it is more appropriate if they inquire as to that particular thing and the Court may be able to give them an explanation, because you cannot segregate one portion of the charge from another and, as I understand the Court's instruction the whole charge is supposed to be taken together and it seems to me there is a tendency in such instances as to emphasize one particular portion.

(The Court) We can bring them back and tell them it is to be treated as a whole and if they wish further instruction on any point, they can come in and ask for them.

(Mr. Genn) Trusting it would not bear on this defendant for objecting to it, I do believe that it is not necessary under the circumstances and I would object.

(Mr. Doub) I do not object.

(The Court) Mr. Williams?

(Mr. Williams) I do not object.

(The Court) Mr. Robinson?

(Mr. Robinson) No, sir.

(The Court) The Court will send it in.

(Mr. Williams) I would call Your Honor's attention to it. The only disturbing factor to me is that you did in your charge properly I think, summarize the indictment and they already have a copy of the indictment so it is in effect emphasizing allegations of the indictment, I think to an excess for them to have it.

(The Court) Would you like me to withdraw those four pages in which I attempted to summarize the indictment? I think that is not unreasonable.

Bring the jury in.

(Mr. Tydings) I am afraid if you take out a part of the charge, you would confuse the jury.

(The Court) The only thing I would take out would be the summary of the indictment.

(Mr. Tydings) Then bring back the jury and explain to them what you are doing.

(The Court) I will do that.

Bring them in.

(Mr. Doub) Your Honor added the word "compensation" at the end of one sentence. Do you have that?

(The Court) I have it.

I think there are two parts. If counsel will come up here, I think we can straighten it out.

(The Jury returns.)

(The Court) Mr. Menzies, in your first place, there was not entire agreement or understanding as to what you asked for. You said "the legal instructions." Did you mean the entire charge, or just part of it?

(The Foreman) The more the better. We would like to take it all if we can but if not, we will take whatever you decide.

(The Court) There is a difference of opinion among the lawyers as to whether it should be done or not. It has not been customary in this Court to do it. I think the Court has a right to do it. I loathe doing it over the objection of some of the defendants, particularly as to the summary of the counts of the indictment. You have the entire indictment and my summary would not control, of course, the language of the indictment. It controls what is charged and not the summary that the Court made.

I suggest you start without it and if you find you need it, you need instructions on any particular count, you can come back and ask for them. If you want the whole thing, you can have it. One of the things that worried some of the counsel was you might read a part, one page or two pages and consider that by itself without considering it in the light of the entire charge and as I told you the charge must be read as a whole, or some portions of it control and modify others. So, if you have specific instructions you want on a particular point, I would probably read you not only that one page but perhaps a part of other pages which throw light on it. If you will start that way, on the other hand if you find that you have a great many questions that you want, counsel and the Court will reconsider the matter.

Does anyone have any objection to the jurors' taking the extra copies of the indictment—the original always goes in?

(Mr. Genn) No.

(The Court) All right. The jury may take these extra copies with them.

TRIAL PROCEEDINGS

(Vol. 1 [41]) (Mr. Genn) Your Honor, I am constrained certainly for the record at first to indicate an objection to any reference to a criminal record or facts which would suggest a criminal record in the opening statement. I should like not to interrupt.

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[44] (Mr. Genn) I have made the objection for the record, Your Honor, as to this particular point on the indictment. I think what may be a more significant point concerns itself with anything outside the indictment.

(The Court) Now, tell me what you have.

(Mr. Genn) I do not know what the government intends to bring in. I suspect they may bring in other [45] overt acts or offenses.

(The Court) Let us see. Certainly, as it may be directly related to the indictment and not prevented. This is the first time anyone has suggested to me that the Government might, because it was not until this morning when you mentioned it that I knew that Meyer, the man mentioned in 42, 43 and 44, was a probation officer and had anything to do with any previous conviction of Edlin.

I did not know myself until this morning that Edlin had ever been convicted of anything except his conviction on plea of nolo contendere in case No. 25—

(Mr. Marion) It was not that number. It was as a result of that and a superseding indictment.

(The Court) In whatever indictment that came in this case. You mean there are two?

(Mr. Tydings) The word "intentional" was left out and there was a re-indictment two or three weeks before he pleaded nolo contendere. But one word they could not agree on a stipulation—

(The Court) So far as I am concerned, up until this morning that was the only conviction or only evidence as far as I knew, that and this were the only two charges, the only ones which had ever been filed against Edlin. I knew of no other. Now, it has since developed that this Meyer [46] was a probation officer and in connection with some previous difficulties of Edlin. Can you tell me what the facts are?

(Mr. Doub) Just so you understand the problem at the outset, the position of Mr. Johnson that he has a constitutional right in this case to develop any matters which were the subject of discussion at those meetings in the Justice Department and one of those matters relates to this probation officer. How he happened to be there.

(The Court) I want to get the facts now.

(Mr. Doub) Yes. But, on the other hand, I concede that Mr. Edlin has a constitutional right not to have it mentioned.

(The Court) Well, you cannot both have a constitutional right not to have it mentioned if he engages in a conspiracy whereby the man brings it down. I am not saying that he did but that is the charge. If it is not sustained.

(Mr. Genn) This was a conspiracy.

(Mr. Doub) They said that the Judge should have severed that defendant out.

(The Court) What defendant? How can you sever a defendant out of this conspiracy in the nature of things. It seems to come in anyhow. It does no good. If the Government makes the same charge, you cannot lose what the conspiracy was and what was done pursuant to [47] the conspiracy by severing anybody out. You can on substantive counts, you can sever them out but you cannot sever them out and you cannot sever between Johnson and Edlin, you

cannot sever them out of several counts under these circumstances.

* * * * * *

[52] (Mr. Tydings) Before the Jury, Mr. Genn, the Government does not wish to prejudice the defendants in any way.

We take the same position the Court does and if you wish to prepare some sort of statement along this line for me, I will include something in my opening statement to that effect.

(Mr. Genn) No, I feel it should not be mentioned and—I feel it should not be mentioned and I feel my legal position—

(The Court) You cannot avoid the present indictment. I have ruled. You cannot avoid the pending indictment [53] with which the whole conspiracy is bound. Now, if you want a statement made about that, what I am considering is what was the 1941 indictment and if you will give me your authorities and Mr. Doub will give me his authorities, I will be glad to read them. I do not want Edlin to be unduly prejudiced.

(Mr. Genn) I have made the objection for the record.

* * * * * *

(Vol. 2 [56]) (The Court) I am ready to rule but I will rule publicly except on one point and the one point that I wish to rule on the record but privately is Mr. Genn's motion in which Mr. Genn has moved that the Court instruct the United States Attorney in his opening statement not to refer either to the indictment against Edlin et al, in the United States District Court for the District of Maryland—which is referred to repeatedly in the indictment and is the basis for most of the alleged conspiracy.

Now, I overrule that motion.

He has further asked the Court to instruct the U. S. Attorney not to refer to any other previous indictment against Edlin or any previous conviction of Edlin in his opening statement and indicates that, he proposes to object

to the introduction of any evidence with respect thereto if offered.

The Court accepts without question the general principles stated by the Supreme Court in Michaelson 355 U. S.—whatever it is—and the Court has endeavored to [57] be guided by Michaelson in its rulings for a long time. This case is exceptional in that the reference which Mr. Tydings proposes to make is to the matters set out in overt acts 41 to 44 which deal—as I understand it—with the acts of Defendants Johnson, Boykin and Edlin, in collaboration and alleged to have been in furtherance of the conspiracy in bringing a parole officer of the United States District Court for the Northern District of Illinois to Washington in order to say to the Department of Justice that the defendant Edlin had been a good parolee when he was on parole following his sentence in 1941 or 1942 in the Northern District of Illinois; that the point that is being made by the Government, as I understand it, is that these alleged overt acts were in furtherance of the conspiracy as an attempt to persuade the Department of Justice that Edlin was the sort of man who should be given the consideration which they were requesting.

The Government contends that this is an important element of the conspiracy and that these overt acts are important overt acts. I have carefully considered Michaelson. I have been cited no case which applies Michaelson in a conspiracy case to prevent the government from proving essential elements of the conspiracy or overt acts in furtherance of the conspiracy.

The Court would not be disposed to even, in a [58] conspiracy case, allow the Government to drag in uncomplimentary evidence of bad character which had little or no relevance or materiality to the issue.

However, I think, from everything I have heard in the arguments so far that is not the purpose of the Government and I do not think that would be the effect of the evidence,

just to drag in something that has no materiality. This seems to me to be material.

However, the indictment does not state for what Edlin was convicted in 1941 and I will repeat here what I said off the record to Mr. Tydings and Mr. Edlin that I will instruct Mr. Tydings not to state what Edlin had been convicted of unless counsel for Edlin requests that the nature of the crime be disclosed.

I further instruct Mr. Tydings, or whomever is making the opening statement for the Government, to make any reference which may be made to the overt acts 41, 42 and 43, brief and that the Government make no effort to argue bad or to suggest bad character on Edlin's part in its opening statement.

I expect the Government to be controlled by the spirit of the Michaelson decision.

(Mr. Tydings) We had not intended to do so.

(The Court) Recognizing that the permission to bring in the testimony of the parole officer, or the [59] testimony in connection with him which will necessarily show a prior conviction is an exceptional circumstance which should not be used to wipe out the good effect of the Michaelson rule.

* * * * * *

[66] OPENING STATEMENT OF THE GOVERNMENT

(Mr. Tydings) If Your Honor please, Ladies and Gentlemen of the Jury: My name is Joe Tydings and I have the honor and the companion responsibility of being your United States Attorney for the District of Maryland.

During the next several weeks, the responsibility will be mine, together with my assistants, to present the facts of evidence which support the indictment, under which the defendants are charged in these proceedings. Seated on my right and assisting me in the trial of the case, the Assistant U.S. Attorney J. Hardin Marion and on his left, Special

Assistant U.S. Attorney Arnold Weiner. On Mr. Weiner's left also assisting me, Special Assistant United States Attorney Arthur Burnett.

Seated at the next trial table are the counsel for the defendants in this indictment. Mr. George Cochran Doub is counsel for the defendant Congressman Johnson.

Mr. Edward Bennett Williams is counsel for the defendant Congressman Boykin; Mr. Harold Ungar is associate counsel for the defendant Boykin.

Seated on Mr. Ungar's left is Mr. William Robinson, a defendant and serving as counsel also. At the far end of the trial table is Mr. Nathan Brown and Mr. Edward L. Genn, counsel for the defendant Kenneth Edlin.

* * * * * *

[70] Now, ladies and gentlemen of the jury, despite its rather formidable appearance and length, the indictment in this case—the charge of the grand jurors for the District of Maryland—is clear and, as concise as possible under the factual circumstances as they existed.

Section 371 of Title 18 makes it a crime in the United States to conspire to defraud the United States of America.

The first count of this indictment charges Congressman Johnson, Congressman Boykin, Mr. Edlin and Mr. Robinson with conspiring to defraud the United States of the fair and impartial services of its two Congressmen, Congressman Johnson and Congressman Boykin. The first count of the indictment is brought under that Section.

The Second through the Eighth counts of the indictment are brought under 281 of Title 18 which makes it a crime for any member of Congress to appear before any Federal Department or Agency for any compensation [71] or agreement to receive compensation whatsoever.

* * * * * *

[86] Ladies and gentlemen of the Jury, the facts adduced in evidence in this case we feel will show beyond any doubt

influence peddling by Congressman Johnson of Maryland and Congressman Boykin of Alabama. As the testimony unfolds and the exhibits are offered into evidence, you will be able to perceive that from April 1, 1960 until December 31, 1961, first Congressman Johnson and then Congressman Boykin in effect went on the payroll of the defendant J. Kenneth Edlin and his organization, and that these two Congressmen put the full power and prestige of their office as Members of the Congress of the United States at the disposal of the defendant Edlin and the defendant Robinson, Mr. Edlin's chief lieutenant, confidant, and personal attorney.

During the spring of 1960, Ladies and Gentlemen of the Jury, shortly after the indictment referred to was returned against the First Colony Savings and Loan Association, Mr. Edlin felt that the First Colony Savings and Loan Association needed respectability. Mr. Edlin also needed a promotional sales gimmick, something to support the solicitors of the First Continental Savings and Loan Association, who were [87] seeking to secure deposits and were meeting an argument that commercial insurance was not as good as Federal insurance.

The defendant Edlin found the answer to both requirements. The answer was a speech to be given on the floor of the House of Representatives of the United States.

During the latter part of April, during the month of May and continuing into the early parts of the month of June, 1960, drafts of such a speech were prepared by the defendant William L. Robinson and were edited and corrected by Mr. Edlin's personal public relations man, Mr. Martin Heflin, of Washington, D. C., and these edited drafts were delivered to Congressman Johnson's office.

However, there was one problem, Ladies and Gentlemen of the Jury, there was no valid excuse for the delivery of such a speech. However, Mr. Martin Heflin, the public relations man of Mr. Edlin, directing Mr. Edlin's personal

Institute of Independent Savings and Loan Associations, discovered the excuse.

On May 27, 1960, in the inside pages of the financial section of the Evening Star of Washington, D. C. there was an article reporting a speech in which a Washington, D. C. savings and loan executive warned the public and Maryland depositors in particular against depositing money in certain phoney savings and loan associations advertising high dividend rates and commercial insurance.

[88] This was the excuse needed for the delivery of the speech, and on June 30, 1960, Congressman Johnson delivered a speech at Mr. Edlin's request containing material which Mr. Edlin wished to be contained in the speech.

Fifty thousand copies of that speech were ordered printed by Congressman Johnson's office, and they were delivered to the First Continental Savings and Loan Association out at Bethesda, Maryland, Mr. Edlin's association, and they were there kept and used as part of the solicitation campaign to seek new deposits for the First Continental Savings and Loan Association.

They were used to mail to prospective depositors not only in Maryland but in other states.

Now, the Government will show and the evidence will prove that in the months following the June 30th speech, there still remained one primary obstacle to the defendant Edlin's future financial success and the success of his many and varied business enterprises, and that was the pending mail fraud indictment against both Mr. Edlin and the First Colony Savings and Loan Association.

During this same period of time, Ladies and Gentlemen of the Jury, the defendant Congressman Frank W. Boykin, Senior Member of the Alabama Delegation to the Congress of the United States, was having trouble of a different nature.

A few years prior, in the early and middle 1950's, [89] his family company, the Tensaw Land and Timber

Company of Alabama, had purchased two large tracts of timber, one located in Charles County, Maryland, near Waldorf, and one located in Stafford County, Virginia. both had been timber, both tracts of land, and later sold for many times their original cost. However, the purchasers of the Virginia tract had gone bankrupt, and Congressman Boykin was forced to buy the land back at a foreclosure sale in 1958, and the purchasers of the Maryland tract as of the late fall of 1960 and early spring of 1961, were in default on their mortgage, and unless new financing were found for them this tract, too, would have to be foreclosed and bought back at such a sale.

It was at this time that Congressman Boykin entered the conspiracy. However, the consideration which Congressman Boykin exacted from the defendant Edlin for his participation was not small. The Government will show that the consideration was this: That Mr. Edlin, using the deposits of the funds available from his two Maryland controlled savings and loan associations, the First Colony and the First Continental, would provide the necessary financing to bail out or refinance the defaulted purchasers of Congressman Boykin's Maryland tract of land, or if absolutely necessary Mr. Edlin was to set up two companies and using the funds from his two savings and loan associations actually purchase both tracts [90] in their entirety from Congressman Boykin's company, the Tensaw Land and Timber Company.

In return Congressman Boykin was to use his full prestige as the senior member of his delegation to Congress to exert pressure on the high officials of the Department of Justice to dismiss the case against J. Kenneth Edlin.

Beginning with the 25th day of March, 1961, and running through November of that same year, a period of a little over seven months, Ladies and Gentlemen of the Jury, Congressman Boykin and Congressman Johnson personally contacted the Department of Justice together or singly an average of once every three days in an effort to have this case dismissed, and later in the fall of 1960, when it appeared doubtful that the case would be dismissed, they

continued to exercise their influence to have the case delayed sufficiently so as to enable the defendant Edlin to complete certain land transactions in which both Congressman Johnson and Congressman Boykin had a personal interest.

During the months of May, June, August and September of 1961, scarcely a day went by without one or the other of these two Congressmen making one type of contact or another with the Department of Justice. They made these contacts, Ladies and Gentlemen, as Congressmen of the United States, ostensibly acting in the public interest and for the welfare [91] of all of the citizens of our United States, all the while carefully concealing from the Department of Justice the true facts that each had a substantial personal financial stake in the dismissal of this case.

The Government will show that during this same period of seven months Congressman Boykin received checks payable to Tensaw Land and Timber Company totaling over $250,000. The Government will show that during this same period of time the defendant Congressman Johnson received checks and cash totaling over $20,000. The evidence will prove that these two Congressmen exerted a veritable drum beat of pressure on the Department of Justice and its officials, even going so far, Ladies and Gentlemen of the Jury, as to use the power and prestige of their office to cause the defendant Edlin's former Federal parole officer in Chicago to fly to Washington, D. C., under the pretense of assisting the two Congressmen in their official duties, and when the parole officer arrived the two Congressmen whisked him over to the Department of Justice to show that Edlin had had a good parole record while under this parole officer's supervision some time before.

Evidence will be introduced in addition showing that an additional inducement to the efforts of both Congressmen Johnson and Boykin to have this case dismissed, that as an additional inducement Mr. Edlin promised the two Congressmen [92] that they would share materially in his profits on a tremendous, pending land deal. Of course, the success

of the tremendous pending land deal was made contingent upon the dismissal of the indictment involving Mr. Edlin.

In this case, Ladies and Gentlemen, as in every conspiracy case, the parties involved did not meet in an exposed area, subject to the scrutiny of their fellow citizens, nor did they execute any signed, formal contract. Quite the contrary, the defendants herein took elaborate steps to conceal the nature and the object of their conspiracy and the source and the method and the purpose of the payments.

During their contacts with the Department of Justice the two Congressmen, Boykin and Johnson, carefully concealed their personal financial stakes, and at the same time gave a number, a variety of purported reasons, to the officials of the Department of Justice for their interest in the Edlin case, so as to lend credence to their guise of intervention in the public interest.

The evidence will show a very sophisticated manner in which the payments of cash and the checks were made to both Congressmen. When Congressman Johnson became a part of the Edlin organization, in the early spring of 1960, he was paid not by the defendant Edlin, not directly by the First Colony or the First Continental Savings and Loan Association, no, indeed. The defendant William L. Robinson [93] would draw a check upon his personal Miami, Florida, bank account and mail that check to the Defendant Congressman Johnson, and each time the defendant Robinson issued his personal check from Miami to the defendant Congressman Johnson, the defendant Edlin would instruct the bookkeeper at the First Continental Savings and Loan or the First Colony Savings and Loan Association to issue a check to Mr. Robinson to cover the check he had mailed to Congressman Johnson.

Many times at the time Mr. Robinson mailed his check to Congressman Johnson, he didn't have anywhere near sufficient funds to cover the issuance of the check to Congressman Johnson, but, of course, the reimbursement from the First Colony or First Continental Savings and Loan Association always arrived to cover the check.

(The Court) Mr. Tydings, you have been fifty minutes. I don't want to rush you, but if you are going to be much more than an hour, I think it would be well to take a break at some time, a very short break.

We will take a five minute recess.

(Whereupon, a short recess was taken.)

(Mr. Tydings) May it please the Court, Ladies and Gentlemen of the Jury: Just before you had recessed I had discussed a little bit about the Government's evidence relating to the matter of Congressman Johnson's compensation, [94] and the fact that Mr. Robinson would mail a check from Miami, Florida, up to Congressman Johnson in Maryland, and then Mr. Robinson would be reimbursed from one or the other of Mr. Edlin's savings and loan associations, the First Continental or First Colony, and the notation or instructions given to the bookkeeper would invariably be "legal fees" or "legal."

The evidence will show, Ladies and Gentlemen of the Jury, that from time to time Congressman Johnson was actually given shall legal chores, such as receiving a letter of a legal nature from William R. Robinson or sitting in on a conference with J. Kenneth Edlin, or retaining or hiring a lawyer from time to time for doing some legal work for one of Mr. Edlin's savings and loan associations. We will show all of this was done to lend color to the receipt of a substantial number of checks under the color or guise of legal fees.

The Government will prove that although over $20,000 worth of checks were issued payable to the law firm of Johnson and Johnson, that not one cent from these checks was deposited in the law firm bank account, nor was it ever listed as received in the books of account of the law firm. Indeed, the active member of the law firm of Johnson and Johnson had never even heard of the checks, Ladies and Gentlemen of the Jury. They were all deposited in Congressman Johnson's personal account in another bank in another town.

On the night of the 23rd of October, 1961, on the [95] eve of a trip around the world which Congressman Johnson was to take, he met with the defendant Mr. Edlin in the lounge of the Woodner Hotel in Washington, D. C., and at that time $3,000 in traveler's checks of the Republic Bank of Dallas, Texas, was given by Mr. Edlin to Congressman Johnson.

Evidence will be introduced to show that these traveler's checks were purchased by the First Continental Savings and Loan Association acting under the instructions of Mr. Edlin, but that later that same evening William L. Robinson reimbursed the savings and loan association from his personal account in Miami, and that the same night or the next day Mr. Edlin directed that one of the land companies reimburse Mr. Robinson for the $3,000.

Now, during the course of the trial, as the Government produces its case, as we have witnesses testify before you, it is naturally impossible for any single witness to cover the entire case or any piece of evidence to uncover the entire case. Naturally each witness will testify about the area with which he has knowledge and each piece of evidence which we offer will have relation to a certain part of the case. For that reason, I would like to give you a short rapid chronology of events to assist you in tying in where each witness's testimony appears in our complete case, and for that purpose it is necessary to go back to the year 1958, because in that year 1958 the defendant Edlin was operating his [96] personal financial company in Miami, Florida, known as the First Continental Mortgage Company.

In February of 1958 Mr. Edlin caused to be incorporated two savings and loan associations in Maryland. 1, the First Continental Savings and Loan Association, which was not activated for two years, and the other, the First Colony Savings and Loan Association, which although it had an office in Prince Frederick, Calvert County, Maryland, was run from Mr. Edlin's Miami office in the Huntington Building, Miami, Florida.

Now, those are the first significant events in our story. The next significant event, Ladies and Gentlemen of the Jury, was the November 17, 1959 indictment by the Grand Jury for the District of Maryland returned in this Court against the First Colony Savings and Loan Association, J. Kenneth Edlin, Rosabelle Edlin, James Bridges and Jackson D. Rains.

Four months after this indictment, April 1, 1960 three years ago today, if you will, the conspiracy got underway, when Martin Heflin, Washington public relations man, at Mr. Edlin's direction, took off from the Washington National Airport for Miami, Florida. It was during those months of April, May and June, the work was done on the preparation of the speech, which I have already outlined to you, Ladies and Gentlemen of the Jury.

[97] It was during these months at a luncheon at the Congressional Hotel in Washington, D. C., that Mr. Martin Heflin and Mr. J. Kenneth Edlin gave Congressman Johnson the resume of the material which Mr. Edlin wished Congressman Johnson to cover in his speech to be given at some later date on the floor of the House of Representatives.

This period of time is significant also for another reason, Ladies and Gentlemen of the Jury. After the indictment of First Colony Savings and Loan Association, Mr. Edlin made the decision not to press this association's business activities further, but rather to activate his other dormant charter; that is, the First Continental Savings and Loan Association, and in that same spring, that is, May 1, 1960, the First Continental Savings and Loan Association had its formal opening in Bethesda, Maryland, and most of the Edlin organization or entourage was brought from Miami, Florida, up to Maryland to actually work in the Bethesda office.

It was on the 20th day of June that same year, 1960, that the first check was issued by W. L. Robinson to Thomas F. Johnson, a check for $500, issued and reimbursed in the same manner which I have already described to you, and ten

days later on the 30th of June, Congressman Johnson delivered his savings and loan speech.

Two months later, on August 30th, a second check [98] was issued by W. L. Robinson to Mr. Johnson, this time in the amount of $1,000.

On November 4th of that same year William L. Robinson issued another check to Congressman Johnson. This time it was a check for $300 made payable to Russell L. Hickman, Campaign Dinner Treasurer.

This is an interesting piece of evidence here, Ladies and Gentlemen. On the same day that William L. Robinson issued that check and mailed it up to Congressman Johnson, he was reimbursed by First Continental Savings and Loan Association check in the same amount, and that check was charged in the Association's books of account as "legal fees."

On January 7, 1961, February 2, 1961, March 6, 1961 and April 5, 1961, William L. Robinson issued checks on each date in the amount of $800, each payable to Johnson and Johnson, and was reimbursed each time in the same manner.

Now, it was early in February, Ladies and Gentlemen of the Jury, early in February of 1961, that Congressman Johnson and Congressman Boykin and the defendants Edlin and Robinson first sat down together and began to earnestly plan an approach to the Attorney General of the United States and other high officials of the Department of Justice, in order to secure a dismissal of the case aforementioned, and at [99] that time, at that meeting, a decision was reached that perhaps it would be wise to prepare a synopsis of the case, challenging each count of the indictment which had been returned in 1959, and to have that synopsis for presentation to the Attorney General or other officials of the Department of Justice, and accordingly, early in March of 1961, William L. Robinson and others began working on this synopsis in Miami, Florida, and on March 3, Congressman Johnson flew to Miami to confer with Mr. Edlin and Mr.

Robinson about the contents and the length of the memorandum.

On the 22nd day of March the memorandum and synopsis was completed, and on that same day Congressman Boykin, who was a personal acquaintance of the Attorney General, called him for an appointment on a personal matter.

On Saturday, March 25th, Congressman Johnson and Congressman Boykin made their first visit to the Department of Justice, on this occasion visiting the Attorney General of the United States for the purpose of securing the ultimate dismissal of the mail fraud indictment against Mr. Edlin.

Three days later on March 28th Congressman Johnson had the synopsis sent over to the Attorney General by hand messenger, and he had a covering letter and a memorandum which was signed Thomas F. Johnson, Member of Congress.

On April 12th Congressman Johnson and Congressman Boykin again went to the Department of Justice, and this [100] time they were referred by the Attorney General to the Assistant Attorney General of the United States in Charge of Criminal Matters, Mr. Herbert J. Miller.

From this date until November of 1961, Congressman Johnson and Congressman Boykin made over sixty completed contacts with the Department of Justice; that is, actually talking to them or actually mailing something to them, and a great, great many more uncompleted; that is, telephone calls which were not returned.

During the month of May 1961, Ladies and Gentlemen of the Jury, $10,000 in checks were issued to Congressman Johnson from the First Continental Savings and Loan Association and the First Colony Savings and Loan Association. They were issued on two separate dates. On each date the amount of $5,000 was issued, one check being from the First Colony and one from the First Continental.

[101] The First Continental Savings and Loan Association checks were cashed during the month of May. However,

some time after the month of May, some time before the books were completed, around the first week in June, the First Colony checks were returned. They were not cashed. The endorsement was removed and in the early part of May a check was issued by the First Continental Savings and Loan Association in the amount of the two checks of the First Colony, the Association under indictment which had been returned and the endorsement on which checks was removed.

One other interesting development, in the Month of May, 1961, Ladies and Gentlemen of the Jury, during that month Mr. Johnson executed a lease with the First Continental Savings and Loan Association providing that the First Continental Savings and Loan Association would use his law office in Snow Hill, Maryland for a branch office of their savings and loan association at a monthly rental of $200.00 a month. Congressman Johnson actually received $800.00 as a result of that lease even though no office was ever opened in Snow Hill. No account was ever received nor any loan ever made.

On June 31, 1961, the First Continental Savings and Loan Association issued a check for $3,250 to Johnson and Johnson.

[102] On August 1, William L. Robinson issued a check for $2,000 to Johnson and Johnson and was reimbursed in the usual manner.

On September 12, William L. Robinson issued a check for $1,500 to Johnson and Johnson and was reimbursed in the usual manner and finally, on October 23, as I have already recited to you, the Travelers check passed hands.

One other significant date, Ladies and Gentlemen of the Jury, on October 24, Congressman Johnson left for his trip around the world. On November 17, Mr. Edlin was formally arraigned before the United States District Court of the District of Maryland and that weekend after his formal arraignment, when it was apparent that the trial was imminent, Mr. Edlin and his right-hand man, the defendant

Robinson, winged their way to Mobile, Alabama, where they registered at a hotel in Mobile and the following Monday, Congressman Boykin calls the Assistant Attorney General Herbert Miller.

I am sorry, Ladies and Gentlemen of the Jury, if the opening statement of the government was too long. However, you will be happy to know that I cut it in half from what it originally was at the request of my associates.

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(Vol. 3 [146]) (The Court) Mr. Doub made some statement that an agreement to receive was necessary. It isn't so. The statute says receives or agrees.

(Mr. Doub) I thought I covered both.

• • • • • •

(The Court) I thought the whole pitch of the argument at that point was that there had to be an agreement for receiving payment. However, there is no use—I don't want to emphasize any particular aspect, although I do think it is the only mistake of law that I noticed.

(Mr. Tydings) There was one other mistake of law, Your Honor. In the last minutes of his opening statement he inferred that the law insofar as the second to the eighth count was that the Government would have to prove that he received the entire check as compensation for appearing before the Department of Justice; whereas the law is that we only have to show that any part of that money was consideration.

[147] (The Court) I think that was clear enough not to make any point of it.

• • • • • •

[151] Thereupon,—

JACKSON D. RAINS

was called as a witness on behalf of the Government, being first duly sworn, was examined by counsel and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Jackson D. Rains.

[152] (The Clerk) How do you spell your name, sir?

(The Witness) R-a-i-n-s.

(The Clerk) Take the stand, please.

Jackson D. Rains.

DIRECT EXAMINATION

By Mr Weiner:

Q. Please give your address for the Jury. A. 6543 Southwest 78th Terrace, Miami, Florida.

* * * * * *

Q. Can you tell us, sir, whether you have ever been employed by any of the defendants in this case? A. Yes, sir, I have been employed.

Q. And by which of the defendants? A. I was employed by the First Continental Mortgage Corporation by Mr. Edlin.

Q. And it that Mr. J. Kenneth Edlin? A. J. Kenneth Edlin.

* * * * * *

[153] Q. Can you tell the ladies and gentlemen of the Jury when you were hired, when you were first hired? A. I was employed in August of 1958.

Q. And for how long did your employment continue? A. I was employed from that date until February of 1962 by various corporations.

Q. And where was it that you were hired? A. In Miami, Florida.

Q. And who did the hiring of you? A. Mr. J. Kenneth Edlin.

Q. What generally was your job; that is, what you were hired as? A. I was hired as an accountant.

* * * * * *

[155] Q. Now, in the course of your employment down there did you have occasion to meet the defendant William L. Robinson? A. Yes, sir.

Q. And how and under what circumstances did you meet him? A. Mr. Robinson did occasional jobs for First Continental Mortgage Corporation, which consisted principally of foreclosures on property and things of that nature.

[156] Q. Did there come a time when he began to play another role in the organization? A. Yes, sir, he then went full time with the organization and Mr. Edlin told me that he wanted Mr. Robinson with him at all times to keep him on the track legally, or words to that effect.

Q. Did Mr. Edlin tell you anything else about the relationship between him and Mr. Robinson? A. He told me he looked upon Mr. Robinson as his nephew. He was very fond of him.

Q. Can you tell us whether there was any one person who was the boss or overall supervisor of the operation? A. Mr. Edlin was the governing force throughout.

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[162] By Mr. Weiner:

Q. Mr. Rains, can you tell us whether or not there came a time when you were transferred to Maryland? A. Yes, sir.

Q. When was this? A. May of 1960.

Q. How did that come about? A. The operation was being opened of First Continental Savings and Loan Association at 514 Wisconsin Avenue, Chevy Chase and I was sent out for an estimated period of three weeks to help us in the opening and set up the bookkeeping records and then return to Miami.

Q. Did you stay for just three weeks or did you stay longer? A. No, sir, I stayed over two years.

• • • • • •

[163] Q. Now, can you tell us whether or not, when you came up to Maryland, you assumed any duties with respect to the records of the First Continental Savings and Loan Association? A. Merely those of bookkeeper and accountant.

• • • • • •

Q. Tell us whether or not there came a time when you had occasion to meet Congressman Johnson?

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[164] A. I first met Congressman Johnson in the early summer of 1960.

Q. Under what circumstances did you meet him? A. I went to his office with Mr. Edlin and Mr. Heflin to pick up copies of a speech that had been given in the House by a Representative King, I believe, from California.

Q. You went to Mr. Johnson's office for these? A. Yes.

Q. What, if anything, took place when you got to Congressman Johnson's office? A. We went to lunch at the Congressional Hotel.

(Mr. Doub) Who was with you, did you say?

(The Witness) Mr. Edlin, Mr. Heflin, Congressman Johnson and myself.

By Mr. Weiner:

Q. Can you tell us where Congressman Johnson's office was? A. In the Old House Office Buliding.

Q. Now, what if anything took place at this lunch that you have mentioned? A. All during the lunch Mr. Heflin was describing to Congressman Johnson the plight of the Maryland [165] Independent Savings and Loans and citing the example of the financial condition of the Federal Savings and Loan Insurance Corporation which, in effect, showed that its assets were less than one per cent of its insured liability and, therefore, the independents who might have mortgage insurance, would be a better investment than a Federal Savings and Loan, and also that some Federals had been advertising that their deposits were guaranteed

by the United States Government when, in reality, they were not.

Q. What, if anything, did Mr. Edlin do during this lunch? A. He would make a brief comment which would point out a point to Mr. Heflin to discourse on.

Q. What, if anything, did Congressman Johnson do? A. He listened very attentively. In my opinion, he was hearing the information for the first time. And he asked intelligent questions.

Q. What if anything, did you do? A. I ordered from the waitress. That is about all I said.

Q. Now, can you tell us whether or not anyone—well, what happened at the end of the lunch? A. It was agreed that Mr. Heflin would send Congressman Johnson a synopsis of what they had discussed.

[173] Q. Now, around the time of this storeroom incident that you have related, did you have any occasion to take any airplane rides? A. Yes, sir, this was just before the long 4th of July weekend, those of us who lived in Florida and were working up here went back in a body.

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(The Court) Is this the 4th of July, 1960, or some other year.

(Mr. Weiner) 1960.

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Q. What, if anything, took place during that plane ride? A. Everyone was in good spirits. Mr. Edlin and Mr. Robinson were sitting together and they were showing [174] the speech back and forth and saying, jokingly, or facetiously, "how do you like the speech I wrote," and the other one would say, "What do you mean, you wrote it? I wrote it", and that sort of thing.

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(Vol. 5 [288]) Q. Now, can you tell Mr. Rains, whether you ever had any occasion to be in Congressman Johnson's

office after the first time that you mentioned earlier in your testimony? A. Yes.

Q. When? A. Mid summer 1961.

Q. Tell us about that. A. I was called by Mr. Edlin on the telephone and he stated that the topside had heard the situation with regard to our indictment but they had one question that they wanted to ask. And this related to the First Colony Loan to Albert Cassell. And the question was how could you lend money that you did not have.

The pattern of the loan was that First Colony was to lend Cassell $400,000 approximately, with $150,000 being paid out at the first go-around.

Q. What do you mean by that? A. The entire amount of the $400,000 was not to be paid out immediately. His first draw was to be $150,000.

Q. What was to happen with that $150,000? A. It was a normal payout under the loan to [289] Cassell. Under the loan agreement Cassell was to pay a total of some $300,000 and interest and commissions and Mr. Cassell was to repay the Association $150,000 at the time of the $150,000 payout. And the question was raised, "How could you pay out $150,000 if you did not have $150,000 in your bank account at that time?"

Q. As related to you by Mr. Edlin? A. Yes. And he asked me what was the situation?

Q. The situation of what? A. The cash situation at the time of the payout.

Q. Of what company? A. First Colony Savings and Loan.

Q. What did you do? A. I pulled the bank statement of that period. This was in December of 1958. The bank statement reflected $152,000 in the bank as of the day before the transaction and $152,000 in the bank the day after the transaction. This was to be presented in evidence that sufficient funds were in First Colony to make the payout.

He asked me—Mr. Edlin asked me to make a photostat of the bank statement and at the same time to bundle up some 25 or 30 sales contracts of persons who had purchased [290] lots from Mr. Cassell in his development and that he and Mr. Robinson would be out to pick me up and we were going to take this information to Congressman Johnson's office.

Q. What, if anything happened? A. They picked me up and took the data to Congressman Johnson's office. They went into his office. He was a few minutes late in arriving. When he did arrive, the bank statement was shown to him and the Cassell contracts were shown to him and Mr. Edlin made a statement as to the validity of the Cassell loan and that these contracts were proof that it was a good loan and the bank statement was proof that funds had been on hand to make the initial payout.

Q. Then what happened? A. Congressman Johnson called Congressman Boykin down to the office.

Q. What happened then? A. There was a discussion between Congressman Johnson and Congressman Boykin as to the best approach to Attorney General Robert Kennedy then on behalf of Mr. Edlin and the others under indictment, to have the indictment dismissed. He stated what he intended to say, that Mr. Edlin was an honest man.

[291] Q. Who is "he"? A. Congressman Johnson. That Mr. Edlin was an honest man engaged in an honest effort. He had not intended to defraud anyone and that the indictment should be dismissed.

Q. Was there any conversation as to whether they had been to see the Attorney General before that meeting that you were at? A. I do not recall that. The main conversation was whether or not the two Congressmen would go to see the Attorney General together or separately.

Q. What, if anything, did Mr. Edlin say? A. Mr. Edlin did not say much but toward the end he stated that, words to the effect, "I have had it. How can I do a job on this land development unless you get this monkey off my back?"

Q. I direct your attention to November or December, 1961 and I ask you if you happened to have overheard any conversation between Mr. Edlin and Mr. Robinson? A. Yes, sir.

Q. And what was that conversation? A. This was during a period when the press was lambasting the independent savings and loans and Mr. Edlin was quite concerned about First Continental [291-A] Savings.

(Mr. Doub) When was that?

(Mr. Weiner) Can you tell us about when that was?

(The Witness) It was in the latter part of 1961.

By Mr. Weiner:

Q. Tell us about the conversation. A. Congressman Johnson was overseas and he was anxious to have the Congressman return.

Q. Who was anxious? A. Edlin. I do not know any of the details as to what the Congressman could have done.

Q. What did you hear in this conversation? A. Edlin was quite disturbed and he blurted out, "We have got to get that s.o.b. back here. We have paid him enough money." The "s.o.b." was not said detrimentally, it was just an explosion.

(Mr. Williams) Was not said detrimentally, is that it?

(The Witness) Was not said detrimentally.

(Mr. Doub) Just affectionately.

By Mr. Weiner:

* * * * * *

[294] Q. Do you have any knowledge of any services that Congressman Johnson performed for First Continental or First Colony? A. There were certain papers which were given to me to keep in safe-keeping at the premises in Chevy Chase but I do not know what the papers consisted of or what legal work had been done.

(Mr. Weiner) Your witness.

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[296] CROSS EXAMINATION

By Mr. Doub:

Q. Mr. Rains, you were one of the defendants who was indicted in the mail fraud case and that indictment was returned in November of 1958, was it? A. 1959.

Q. 1959. [297] And your counsel filed in January or February, 1960 a motion to dismiss, did he not? A. I am not sure. I do not recall the technicalities.

Q. Now, as a matter of fact, that indictment was dismissed as to you, was it not? A. Yes, sir.

Q. And on what date was it? A. The indictment was dismissed immediately after Mr. Edlin plead nolo contendere and the indictment was dismissed.

(Mr. Genn) If Your Honor please, I am going to object and I move for a mistrial.

(Mr. Tydings) He certainly has a right to answer the question.

(The Court) As I have said before, there is no possibility of this case being tried without what happened at the end of that case coming in somehow. Now, the Government did not bring it out. Mr. Doub has brought it out by a direct question and I gather Mr. Doub contends he has the right to do that. I will instruct the jury, I will deny your motion for mistrial. Do you wish me to make a statement to the jury along the lines that I offered to make before or do you not wish me to make it? [298] I will make it or not make it as you request as to this.

(Mr. Genn) Your Honor, I have stated what my objection is in a motion and I believe the testimony is inadmissible as to the defendant and anything further at this time would be a waiver of the defendant's rights.

(The Court) All right.

The witness has stated that Mr. Edlin plead nolo contendere to the indictment. The Court instructs you that the outcome of that indictment with respect to Mr. Edlin is not a matter to be considered by you in this case. A plea of nolo contendere is not to be considered by you as an admission of guilt by Mr. Edlin nor as a finding of guilt of Mr. Edlin in that case.

You are further instructed that—of course the fact that the indictment was pending is the basis for the alleged conspiracy in the present indictment so that has to be before you, but the outcome of that case is not to be considered by you as any evidence against Mr. Edlin.

Now, that is the only matter now before me so far as I see.

Mr. Doub brought it out in his statement so I do not see how he has any possible objection. Does either Mr. Boykin or Mr. Robinson wish the Court to give any instructions other than this?

[299] (Mr. Williams) Absolutely none, Your Honor.

(Mr. Robinson) No, Your Honor.

(The Court) You have your exception.

(Mr. Genn) May I have an exception to the ruling.

(The Court) If you will indicate wherein my statement was in error or prejudicial I will be glad to try to correct it. I understand that if you had asked me to make the statement you might have waived your point. I did not want you to waive your point. I did not think that you were entitled to the benefit of what I said. What I said, I tried to make helpful to the defendant if the fact was going to remain and if there was not to be a mistrial.

If you wish to tell me privately or publicly wherein what I have said was prejudicial, I will try to correct it.

(Mr. Genn) Simply, Your Honor, I do not think that any instruction to the jury in the matter could cure what I believe to be the error.

(The Court) I understand that point and I give your exception on that.

(Mr. Doub) Would you read the question back?

(Mr. Weiner) I think he was in the middle of a sentence at that point, Your Honor.

[300] (The Witness) The indictment was dismissed as to James W. Bridges, First Colony Savings and Loan, Rosabelle Edlin and myself.

(Mr. Genn) So the record may be clear, I would like to have a continuing objection along the same lines with reference to the result on the point that I have stated previously and on the grounds previously stated as to this particular point.

(The Court) You can have a continuing objection every time it is mentioned. It is not to be emphasized by anyone in the case because I have said it is irrelevant and immaterial.

By Mr. Doub:

* * * * * *

[302] Q. Right from the first you were talking in terms of getting the government to agree to dismiss that case, were you not? A. Not to these gentlemen, no. It was my hope right from the first. I had no discussions with anyone about it—to clarify that point.

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[309] Q. Now, you have testified, Mr. Rains, to conversations with Mr. Edlin about that pending mail fraud indictment which started back, I think at the end of 1959. It was returned then and you and he used to discuss the problem you had involved in that case frequently, did you not? A. Yes, sir.

Q. It was a matter of great concern, personal concern to you? A. Yes. It was my life.

Q. That is right.

Just as in this case these defendants' lives. Now, you said that Mr. Edlin kept reassuring you about the case? [310] A. Yes, sir.

Q. Do you remember saying that? A. Yes, sir.

Q. And, as a matter of fact, didn't you say, and he say, that the charges did not have a solid, sound foundation? A. Yes, sir.

Q. You have always felt that those charges were unfair and unjust, did you not, as to you? A. Yes, sir.

Q. As a matter of fact, the basic charge was that First Continental had advertised and paid a dividend during the first year of its operation, wasn't that what was particularly involved in that case? A. That was one of the points.

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[311] By Mr. Doub:

Q. And Mr. Edlin took the same position you did, did he not, that he was absolutely innocent, in your conversations and so did the other defendants? A. Yes, sir.

Q. That was the substance of these conversations right from the beginning to the end, was it not? A. Yes, sir.

* * * * * *

[318] Q. Now, you testified in the early summer of 1960 you say some reprints of this speech in the offices of First Continental. Did you ever see bundles of these reprints of this speech unopened and un-used in the offices of First Continental? A. Yes, sir.

* * * * * *

Q. As a matter of fact, isn't it true that thousands of these reprints were never distributed at all? A. Yes, sir.

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[319] Q. When did First Continental start to do business, Mr. Rains? A. In May of 1960.

Q. May of 1960. And at the end of 1960 what, [320] in round figures, was the amount of its deposits? A. It is a guess on my part but I would say about $1 million.

Q. About a million dollars. Say, in June, 1961, what was the amount of deposits or share interest? A. $2 million.

Q. And at the end of 1961 what would you say? A. If you would like me to refer to the general ledger which is an exhibit, I believe I can tell you more specifically.

Q. Go ahead.

(The Witness) It is the small ledger. In December of 1960, the deposits were $1,686,902.96. As of June 30, 1961, deposits were $3,037,102.82.

By Mr. Doub:

Q. All right. Now, at the end of 1961 as of December 31 of that year? A. $2,504,102.10.

Q. You testified that sometime in 1961 in my notes that you brought to Mr. Johnson's office some photostats of some sales contracts of lots with respect to lots involved in the Cassell loan. Do you remember that? A. Yes, sir.

Q. And also a bank statement? A. Yes, sir.

[321] Q. Did not Congressman Johnson say in your presence at that meeting that this information had been requested by the Department of Justice? A. I do not recall that statement.

Q. If Mr. Johnson should say that he did make that statement, would you say it is untrue? A. No, sir. I knew that to be a fact from Mr. Edlin, not from Mr. Johnson.

Q. Oh, you did? A. Yes.

* * * * * *

By Mr. Williams:

Q. I understood you to say in response to a question by Mr. Weiner yesterday that they were discussing an approach? A. Yes, sir.

Q. By that did you mean that they were discussing a first approach or— A. No, the action on the approach was whether they should go together or separately.

Q. And Mr. Johnson had called Mr. Boykin and asked him to come down from his office? A. Yes, sir.

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(Vol. 6 [396]) By Mr. Genn:

Q. Mr. Rains, with reference to the transactions as to the land transactions, you were aware, were you not, that essentially that was a loan transaction in which First Colony and First Continental had a participation agreement? A. That is true of the Charles County loan, yes, sir.

Q. You knew that to be true, did you not, sir, with reference to the land transactions both in Charles County and Leisure City; did you not, sir? A. I don't believe Leisure City was a participation loan between the two associations.

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[398] JOHN E. McKEEVER

a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Marion.

Q. Mr. McKeever, where do you reside? [399] A. I reside at 7219 Delafield Street, Chevy Chase, Maryland.

* * * * * *

Q. At the present time do you hold any position in connection with the First Continental Savings and Loan

Association? A. I am the receiver for First Continental Savings and Loan Association appointed by the Circuit Court for Montgomery County on January 3, 1962.

Q. And as receiver of First Continental Savings and Loan Association what are your duties? A. Under the order of the Court, to gather and protect and to liquidate the assets of the corporation leading to an eventual distribution of funds to the shareholders.

Q. And you have held that position since January 3 of 1962? A. Yes, sir.

Q. You are still acting as receiver at the present time, is that correct? A. Yes.

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[415] SADIE GOLDMAN

a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Tydings:

Q. Were you subpoenaed to appear as a witness in this trial? A. Yes, sir.

Q. Where do you reside? A. 1605 Bay Road, Miami Beach, Florida.

[416] Q. Are you the wife of Mr. Louis Goldman? A. Yes.

Q. Can you tell the jury whether or not there came a time when you were employed by Mr. J. Kenneth Edlin at the First Continental Mortgage Corporation in Miami? A. Yes, I was. I was hired in May of 1959.

Q. In what capacity? A. Secretary to Mr. Bradford Wyckoff.

Q. And at that time will you briefly describe your duties to the ladies and gentlemen of the jury? A. Yes. Mr.

Wyckoff would dictate mail to me in answer to inquiries that came in about First Colony.

Q. About First Colony Savings and Loan Association? A. First Colony Savings and Loan Association, and I would type this mail.

This mail was thereafter brought into Mr. Edlin to be checked back.

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[422] (Mr. Tydings) I think I was very specific, Your [423] Honor. I asked her shortly after she returned from Bethesda, Chevy Chase, Maryland in 1960, did an unusual incident occur.

(The Court) That is all right. It was shortly after she returned in May, 1960. Go ahead. She may testify.

(The Witness) This was about the first week of June of 1960 when Mr. Edlin—this was a very unusual incident. Mr. Edlin came in very happy, sorted the mail and had a running commentary as usual about various things and then he said, out of the clear sky, "Well, I have made a new contact. There is no stopping us now. The sky's the limit. We'll have a chain of banks, Sadie, we are going to be rich."

I looked up at him and he says, "Seriously, Sadie, it is a Congressman." And that was all.

Well, I walked out of his room and Mr. Robinson was sitting in the outer office. There was no one else around and I said to Mr. Robinson—we were friendly—and I said, "Gee, what is he all hopped up about? He is acting like he realized his life's ambition."

Mr. Robinson says, "Better than that."

(Mr. Doub) I did not hear that last.

(Mr. Tydings) I think, if you let the witness [424] finish, you can cross examine.

(Mr. Doub) We cannot hear.

(The Court) The witness asked Robinson "What is he so hopped up about," and Robinson said what I heard—there may have been something in between, "It is better than that."

(The Witness) Did you ever—well, he said, "Did you ever hear of Congressman Johnson?"

I said, "No, I never did."

He said, "You will hear plenty about him now. He is on our pay roll. It is costing Ken plenty."

So, I interrupted. I says "it never costs Ken anything. It always costs the firm."

So Mr. Robinson said, was laughing and he said, "Well, there are no holds barred now. The sky really is the limit, Sadie," and with that he walked—you know, he had a cup of coffee in his hand and he walked to Mr. Edlin's private office.

* * * * * *

Q. Directing your attention back to July of 1960, the period when you were up in Chevy Chase, did you ever have occasion to discuss with Mr. Robinson anything about the pending mail fraud indictment against Mr. Edlin and First Colony Savings and Loan? A. Well, generally, the conversation. Now, I do not know exactly.

[429] Q. Well, the substance of the conversation. A. But the substance of the conversation—

(Mr. Doub) When?

(The Witness) Excuse me.

(The Court) When was it?

(The Witness) When?

(The Court) Yes.

(The Witness) Well, I was in Maryland between May 1 and May 21, and then I was in Maryland again between July 10 and July 29.

(Mr. Doub) 1960?

(The Witness) 1960. It would have had to be either during those periods. I am sorry. I do not remember exactly when.

(Mr. Tydings) All right. Go ahead. Go ahead and tell the jury what happened.

(The Witness) Well, as I said before, Mr. Robinson and I were on a friendly basis and we discussed—I would say, "What happens to our jobs? What happens to us if Mr. Edlin goes to jail—does the place close?"

Well, Mr. Robinson said —

(Mr. Genn) If the Court please, I would like to have an objection to this as a part of the continuing objection I have previously had as to anything in connection [430] with Mr. Edlin.

(The Court) While this is admissible against Mr. Robinson, it is not admissible against Mr. Edlin. If Mr. Robinson said something, I do not see the basis of the objection. You may have an exception to the ruling. Go ahead.

(The Witness) Thank you.

He said, "You have nothing to worry about. The Congressmen are being paid well and Ken will never go to jail. Don't worry."

That was more or less the gist of it. I mean, I do not remember the exact words but that was the gist of our conversation.

(The Court) It is clear that is not admissible against Edlin, to prove a conspiracy or to prove Edlin's part in it. It is admissible against Robinson to prove a conspiracy. And there is no motion by any of the others.

It does not seem to me to be an act in furtherance of the alleged conspiracy.

* * * * * *

(Vol. 7 [437]) (Mr. Genn) As I understood the manner we were to proceed—and I may be in error—I would like to make a motion to strike certain testimony of a specific witness about a conversation which is hearsay to the defendant involved, in this case, Mr. Edlin. I understood that we could make motions to strike with reference to that particular testimony in so far as it is not in furtherance of the conspiracy or to prove the conspiracy. That was my understanding.

Now, I have particular reference to page 424 of the transcript in the testimony of a witness as to alleged discussions with Mr. Robinson and a statement therein alleged to have been made. I simply want the record clear in it has not been by that agreement. That did not occur in the earlier part of the record but most of this type of understanding was in reference to the others because the earlier testimony—

(The Court) Now, what did you want?

[438] (Mr. Genn) I did want to move to strike as far as Mr. Edlin is concerned, that part of the testimony which is outside of the presence of Mr. Edlin. That starts with—

(The Court) I think you had better do that at the end of the case. Isn't that what you want to do, and designate it, because some parts of the testimony—

(Mr. Genn) Speaking only of page 424.

(The Court) If it is some parts of her testimony, what Robinson said about Edlin is not admissible. What she said Robinson said about Edlin is not admissible until it is in some way in furtherance of the conspiracy.

Now, I thought I said somewhere that this was evidence against Robinson of the existence of the conspiracy. But it is not evidence against anyone else as to the existence of the conspiracy.

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[443] CROSS EXAMINATION

By Mr. Doub:

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[453] Q. Do you recall, Mrs. Goldman, that you and your husband had a lengthy meeting with Mr. Mintz of The Washington Post in Miami in December, 1961? A. I recall having the meeting. I cannot place the date, but I recall that.

Q. And Mr. Mintz was a newspaper man, was he not, on the Washington Post? A. Well, Mr. Mintz said he was a newspaper man, but may I interrupt you for one moment. Is that relevant to my testimony in any way?

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[454] Q. How long did your meeting with Mr. Mintz last? A. Quite a while.

Q. As a matter of fact, it lasted fourteen hours, did it not? A. Well, you are a better judge of time than I am, Mr. Doub. I do not know that it lasted fourteen [455] hours. I know it took a long time.

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By Mr. Doub:

Q. What was the purpose of that meeting? A. I do not know. I really honestly do not know whether it had any definite purpose or what you might call a newspaperman, a news hound that knows there is news, that he is on the trail of a bit of news. I do not think it had any other purpose than that. As a good newspaperman, or reporter, I think he smelled something in the air and was trying to get to it.

(Mr. Genn) If the Court please, I am going to object to the characterization. This is more prejudicial testimony. This witness has volunteered [456] matters on every possible moment that she could.

(The Court) Could you read back the answer and tell me what part you want? You know, if each defendant just pro-

vides the other defendant with such opportunities, you would never get any case tried.

(Mr. Genn) Your Honor, this defendant, Mr. Edlin, is entitled to a fair trial and not a witness volunteering, every moment she can, some kind of testimony that is not responsive to the question.

(The Court) This was a very remarkable question that she was asked. Would you read the answer?

(The reporter read part of the answer as follows:

"A. I do not know. I really, honestly do not know"—)

(Mr. Genn) If that is the answer, I object to anything else that follows it.

(The Court) Strike out the rest of it.

Do you object to it being stricken?

(Mr. Doub) No.

* * * * * *

[465] Q. When business was going well, was your boss, Mr. Edlin, an optimistic type? Was he often talking about building this great empire? A. Yes.

Q. He would talk to you about opening new savings and loan associations, would he not? A. Well, he did not only talk to me. He was friendly with everybody. All the employees, and he would mention it to everyone.

Q. He would talk about the fabulous things that were going to be done? A. That we had a future, you know, that the firm had a future. I mean, that is what he probably tried [466] to indicate.

Q. Yes. And he would talk about opening new branches, for example. A. Yes. Along those lines.

Q. Did he talk about establishing new savings and loan associations? A. For the most part, yes.

Q. He would dream his dreams before his private secretary. A. Well, not only before me. Before all of us.

Q. Before others, too? A. It was sort of, as Mr. Edlin used to say, "We are one big happy family." He used to talk that way to everyone. He did not pick just me in particular to confide in me.

Q. He was, would you say, an optimistic type or pessimistic? A. No, I would say he was a very happy, optimistic type.

Q. Yes. What are your sentiments toward Mr. Edlin, do you—

(Mr. Genn) I am going to object to that, if Your Honor please.

(The Court) Sustained, unless you want to [467] come to the bench. And make some proffer of proof on that.

(Mr. Doub) I would like to have a bench conference.

(At the Bench.)

(Mr. Doub) I would like to proffer to show to Your Honor that this witness is not only—this witness is very bitter toward Mr. Edlin and in fact, indeed is not only bitter, but there is enduring hatred there present.

(The Court) She certainly conceals it beautifully.

* * * * * *

[468] (The Court) Mr. Williams, what is your opinion on the subject?

(Mr. Williams) I do not want to get into the cross fire between Mrs. Goldman and Mr. Edlin.

(The Court) I would like to have your opinion on it.

(Mr. Williams) I think, if it adduces the fact that she is biased toward Mr. Edlin, I think it is certainly germane here. I do not know whether she is going to concede she is biased or not, and Mr. Doub may not like the answer he gets.

(The Court) Do you want me to allow it or not?

(Mr. Williams) What are her sentiments toward Mr. Edlin.

(The Court) On this particular question. "What are your sentiments toward Mr. Edlin?"

(Mr. Williams) Your Honor, with respect to the question of law, I think certainly it is admissible but I would hope that Mr. Doub would not ask her the question as a practitioner.

(Mr. Doub) I have great respect for Mr. Williams.

(The Court) Do you withdraw the question under [469] the circumstances? You run a good deal of risk.

(Mr. Doub) No, I think I will have to ask her some things along this line.

(The Court) Ask her something else. That question is perfectly wide open and anything can come out. I think the best thing is to ask some different questions.

(In open court.)

(The Court) Mr. Doub is withdrawing that question and is going to ask another one.

By Mr. Doub:

Q. Mrs. Goldman, you have quoted Mr. Edlin as making several statements yesterday, you quoted him as making several statements to you or in your presence. Based upon your experience as secretary to Mr. Edlin in 1960, did you find his statements to be invariably accurate, which he made to you or in your presence?

(Mr. Genn) If your Honor please, the same objection. This witness' character is not being tried in this case. This defendant's character is—

(The Court) I think I will sustain the objection. I do not remember that she said anything that Mr. Edlin said which is admissible against Mr. Johnson.

[470] Now, all of these statements made by Mr. Edlin, I have indicated you may move to strike because, if they are not admissible against Johnson—Edlin's admissions are not admissible against Johnson as tending to prove a conspiracy or that Johnson entered into it. I do not remember that she had testified to any statement that Mr. Edlin made that could conceivably act in furtherance of the conspiracy, except perhaps making a date at the Eden Roc Hotel. Now, that is the only thing which could possibly, that I can see. The rest of it was admissible only as against Edlin and I do not see that you have any grounds for asking questions that are objectionable to Mr. Edlin's counsel on that ground.

(Mr. Doub) Withdraw it, Your Honor.

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[472] Q. Didn't you mail some copies of a speech by Congressman Cecil King of California? A. Yes, sir.

Q. There were many copies of Congressman King's speech at that office, too, were there not? A. That was very vague in my mind. That is very vague. I know there were copies. I have no idea and I know they were mailed out.

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[473] Q. Have you ever made any derogatory remarks about any of the defendants here? A. I have no reason ever to make derogatory remarks.

Q. Never made any derogatory remarks about Mr. Edlin, for example? A. To whom?

(Mr. Genn) If the Court please, it is the same type of objection.

(The Court) Mr. Doub, what is the point in that?

(Mr. Doub) Very well, I will withdraw it, Your Honor.

• • • • • •

[48?] By Mr. Williams:

Q. In July of 1960 when you heard Mr. Robinson refer

to the Congressman, to whom did you think he was referring to? A. Well, I thought he was referring to Congressman Johnson and Congressman Boykin.

* * * * * *

[506] By Mr. Williams:

Q. Mr. Robinson, Mrs. Goldman, was asking you to fix in point of time a conversation which you said you had with him. Now, was the conversation to which you were referring in your answer the conversations involving the Congressman and Mr. Edlin's going to jail? [507] A. I believe that is the conversation Mr. Robinson referred to. My interpretation of his question, I may be wrong, but that was my interpretation of the question Mr. Robinson had in mind.

Q. That was the conversation in which you said that Mr. Robinson said the "Congressman will never let Mr. Edlin go to jail," in substance?

(Mr. Genn) If the Court please, I have a continuing objection to any reference to this.

(The Court) Let us get this. Before you answer, there is an objection from Mr. Edlin's counsel on this. The question of Mr. Robinson was the date of the conversation with the witness about Congressman Johnson. That is the way it was put. Boykin's name was not mentioned in Mr. Robinson's question.

(Mr. Williams) That is right. I am trying to find out if that is the conversation to which she was referring which she said took place in June of 1960. I understood that she said yes, that is the conversation.

(The Witness) About June.

(The Court) Now, there are no other details to it.

(Mr. Genn) It was the prejudicial nature of the conversation as well as its linking it up with a [508] particular conspiracy.

(The Court) The particular question was withdrawn and not answered. What you call the prejudicial character as to what was said I will strike that out. If it is not already stricken and withdrawn, what Mr. Williams said.

What Mr. Williams says is not evidence and the question is one as reframed, as the Court said. Fixing the date of the conversation with Robinson about Johnson, is the question that Robinson asked and the question that Mr. Williams was trying to clarify.

Now, Mr. Williams' suggestion as to what was said in the conversation was part of the question that was either withdrawn or stricken. All right.

* * * * * *

[514] JACKSON D. RAINS

resumed the stand and testified further as follows:

(The Clerk) Jackson D. Rains.

* * * * * *

[519] CROSS EXAMINATION

By Mr. Genn:

Q. Just to clarify the record, Mr. Rains, yesterday in my examination of you I directed certain questions in reference to the land transactions, and indicated there specifically at page 396 of the transcript, the fact that the land transactions were essentially loan transactions involving a participation agreement of First Colony and First Continental insofar as Charles County and Leisure City were involved, and I believe, sir, you have indicated that was correct as to Charles County, but as to Leisure City you had no recollection, I believe your answer was, of it being a participating loan? A. That is correct.

Q. Do you recall that, sir? A. Yes.

Q. I am simply clarifying the record on this point. You did not mean by that, sir, that it was not a loan transaction,

did you? You meant that you didn't know whether the two savings and loans participated, isn't that correct? A. That is correct.

Q. In other words, it was a loan transaction as to Leisure and Charles, but as to Charles there was participation of the two associations. As to Leisure there was not participation, but just one association? A. That is correct.
[520] Q. Is that statement that I have given you an accurate statement, as you recall it? A. Yes, sir.

(Mr. Genn) No further questions.

* * * * * *

[Tr. 520-551]:

MARTIN HEFLIN

was called as a witness by and on behalf of the Government, being first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Martin Heflin.

(The Clerk) You will have to speak up, sir.

(The Witness) Martin Heflin.

(The Clerk) Martin Heflin. Take the stand, sir.

DIRECT EXAMINATION

By Mr. Marion:

Q. Where do you reside? A. In Washington.

Q. What is the address? A. 1727 19th Street, Northwest.

Q. As a matter of fact, you are the brother of Van Heflin, the movie star, are you not? A. Thanks for the plug.

Q. Mr. Heflin, what business are you in? A. I have a public relations counseling firm.

Q. And under what name do you practice that business? A. Martin Heflin Associates.

Q. I think if you move the microphone a little closer, your voice will carry.

In connection with your work as a public relations counsel, Mr. Heflin, can you state whether or not there came a time when you met a man by the name of J. Kenneth Edlin? A. Yes.

Q. Can you recall approximately when it was you first met him? A. It was in the fall, I think, around 1958 or the first part of 1959.

Q. And did you have the occasion to do any sort of work for him at that time? A. Yes, at that time.

Q. And approximately how long did your association with him at that time last? A. Oh, I think it lasted about thirty days.

Q. Did there come a time thereafter when you were again contacted by Mr. Edlin? A. Yes.

Q. Can you recall approximately when that was? A. Exactly, I would say about April 1, 1960. I was contacted a day or so before that.

Q. And what was the nature—how did the contact come to you? Was it personal or by telephone? A. Mr. Edlin telephoned me in Washington.

Q. You were in Washington. Do you know where he was? A. In Miami.

Q. What was the nature of the telephone conversation with Mr. Edlin at that time? A. He asked me to come to Miami to confer with him and his associates about a matter concerning independent savings and loan associations. The idea was that they were going to reactivate an Institute of Independent Savings and Loan Associations, That was the gist of the conversation at that time.

Q. Did you agree immediately to go to Miami? A. Not immediately. I think it was the following day I worked it out to come down there, to fly down there.

Q. And did you receive any funds prior to your leaving Washington for Miami? A. Yes. Mr. Edlin sent me a check.

Q. I show you a piece of paper and ask you if you can identify that. Can you identify that? A. Yes.

Q. From whom is that? A. Mr. Edlin.

Q. What is the date of it? A. March 29, 1960.

Q. You received that in Washington? A. Yes.

(Mr. Marion) The Government wishes to offer this in evidence and show it to defense counsel.

(Mr. Williams) We have no objection to it.

(Mr. Marion) The Government offers this into evidence.

(The Clerk) The letter dated March 29, 1960, Government exhibit 53 marked in evidence.

(Government exhibit 53 received in evidence.)

(Mr. Marion) Members of the Jury, this is a letter on the letterhead of Mr. J. Kenneth Edlin dated March 29, 1960, addressed to Mr. Martin Heflin, 27 19th Street, Northwest, Washington 9, D. C.

"Dear Martin:

"Enclosed is a check for $500 on account. Bradford Wyckoff is looking forward to meeting with you on Friday and needless to say, I am also. Wire flight number and Airline you are taking and we will meet you at the airport.

J. Kenneth Edlin."

Signed "Ken."

By Mr. Marion:

Q. I think you indicated there was a check enclosed with that letter. A. Yes.

Q. Upon receipt of that check and that letter, did you make arrangements to go to Miami? A. Yes.

Q. Do you recall what date you went to Miami? A. It was the first of April, 1960.

Q. Did you meet—who did you meet when you arrived in Miami? A. I went to the office of First Continental Mortgage Company.

Q. First Continental Mortgage Corporation? A. Yes.

Q. And with whom did you talk there? A. Mr. Edlin, his associates. I had just met the rest of these people, for the most part, for the first time.

Q. And what was the nature of the discussion if any at that time with Mr. Edlin? A. There was a discussion with everybody around the table as to the reactivation of this savings and loan institute of independents and it was a fairly brief meeting then. I went over to the hotel and checked in in about an hour.

(The Court) Can the jury hear? I do not think counsel can hear what you say. If you would speak into this microphone.

(The Witness) All right, sir.

By Mr. Marion:

Q. Did you have any further discussion with Mr. Edlin or with anyone else while you were in Miami? A. Oh, yes, we had a meeting every day. I was only there, I think, two days.

Q. Was anyone else present with Mr. Edlin at any of those meetings? A. Yes, the whole group, Mr. Wyckoff, Mr. Robinson, Mr. Rains. As I recall, and a big tall fellow.

Q. Mr. Leier. A. Mr. Leier was there.

Q. And again what was the substance of those conversations? A. It was about the reactivation of this savings and loan institute. There seemed to be considerable apprehension on Mr. Edlin's part that something should be done to defend the independent savings and loan associations and project them in the public mind in a more favorable light than they had been shown up to then and there was legislation pending as I understood and was given to understand in the Maryland legislature with respect to regulating the independent savings and loans.

Q. And, according to those discussions, what, if anything, was to be your position or your function with regard to the Institute? A. I was to act as—take them on as another client, and advise them with respect to public relations. Their contact with the press and other means of communication. It was largely a matter of pulling together this institute on a basis of presenting some kind of a front, some sort of a united front. That was the idea. In other words, doing a public relations job for the Institute.

Q. What inquiry, if any, did you make about the size of the Institute or the number of its members. A. Well, I asked about—I was given to understand that such an Institute did exist. That it had been inexistence since 1958. I later had checked that from Washington and it had been incorporated in the District of Columbia in 1958. I was given to understand that they had a number of members, considerable number. Dozens or fifty or a great many members.

(Mr. Genn) If the Court please, I am going to object to what he was given to understand. The question would be what was told by anyone of the defendants and not by what he was given to understand by some hearsay testimony from some other source.

(Mr. Marion) That is my next question.

(The Court) If it was in the conference with Mr. Edlin and Mr. Robinson, with Mr. Edlin's juniors in the group

present I would say that whatever was stated at the conference would be admissible unless you have some authority to the contrary.

(Mr. Genn) Well, when one person says "I was given to understand something," that is not stating what he was stating.

(The Court) I think it is a proper objection to say what he means. What do you mean, you were given to understand? Do you mean somebody there said something or you picked it up somewhere else?

(The Witness) I specifically asked.

By Mr. Marion:

Q. Who gave you to understand this in that conversation? A. Well, Mr. Edlin, Mr. Robinson, there was general agreement by these gentlemen that there were a good many members of this Institute.

Q. Did you at any time thereafter learn exactly how many members of the Institute there were in April of 1960? A. After I had started, actually started to work on it, you mean?

Q. Yes. A. Well, I found out very shortly that there were not but two members actually.

Q. What two members were they? A. The two associations, First Colony and First Continental.

Q. At the time you went to Miami in early April of 1960, do you know whether or not the Institute had any office? A. I did not know whether they did when I went down there.

Q. Did you later learn whether or not they at that time had an office? A. No, they did not have an office at that time. I understand that there was no office then. I did understand there had been one. Somebody, who ever it was, had charge of the affairs of the Institute before may have one but they did not have one at the time.

Q. All right, now, was there an office obtained for the Institute? A. Yes, an office was opened.

Q. And where was that? A. At 1025 Connecticut.

Q. What permanent staff if any did the Institute have? A. They had no permanent staff there.

Q. What did they do about telephone service? A. They had an answering service and then there was a receptionist and a secretary in this office. There were a number of officers and manufacturers' representatives and other people who each had one room in this general office. There was a receptionist and secretary that took care of telephone calls and such as that.

Q. This was under some sort of arrangement sharing this employee with these other offices? A. Yes, sir.

Q. Were you ever in the office of the Institute thereafter? A. Oh, yes.

Q. How often did you go there? A. Sometimes once a week; sometimes three time a week. There never was any—this was not as I say, a full time job. The Institute was another client of mine. I would go into the Institute when something specific was to be done or to see if there was any mail in response to inquiries that I may have made with the press or magazines or something of that nature.

Q. What, if anything, did you do with mail which was addressed to the Institute at that office? A. Well, if it was something concerning public relations, the press or something like that, I would open it and take charge of that. Otherwise I would forward the mail to Mr. Robinson.

Q. Where would you forward it to Mr. Robinson? A. At First Continental.

Q. Who was the nominal head of the Institute at that time? A. Mr. Robinson was the trustee-director of the Institute.

Q. And from whom, if anyone, did you obtain your instructions and your orders in connection with the work you did? A. Well, normally, from Mr. Robinson. He was the boss. And the head of the Institute.

Q. With whom did you discuss the affairs of the Institute from time to time? A. With Mr. Robinson and Mr. Edlin.

Q. Now, when you first were retained to act as public relations counsel for the institute, what was the nature of your duty or duties, what generally did you do at that time? A. Largely there was a period of time when this whole situation had to be studied. I tried to familiarize myself with the savings and loan picture. There was quite a bit to be studied and digested and to try to hit upon some means of public relations. Very soon it developed as, far as the Institute was concerned, there was not very much you could say at that time.

Q. Were any letters sent out from the Institute? A. Oh, yes, there were letters of solicitation for members.

Q. What, if anything, did you have to do with those letters? A. Nothing except I would edit. I always saw the letters. I would edit them and make suggestions for material to be included in them.

Q. Who prepared the letters initially, if you know. A. Well, it was a toss-up between usually Mr. Robinson and myself. There would be drafts of letters and so forth. I would look at them and finally the final copy would be decided upon. This was in a solicitation to get new members for the Institute. And this would be done.

Q. Did you have any arrangement with either Mr. Edlin or Mr. Robinson about how you should bill for your services? A. Yes, initially, I did.

Q. And what was the nature of that discussion? A. Well, I was to work for the Institute so I billed the Institute. The first billing was to the Independent.

Q. Directly to the Institute. A. Yes.

Q. What, if anything happened to that bill? A. I was told not to bill that way but to bill the Institutions separately.

Q. Which institutions? A. That was First Colony and First Continental and one other land development company.

Q. Do you remember the name of the land development company? A. Yes.

Q. This Cassell Land Development Co.? A. Yes.

Q. In other words, you split your bill three ways? A. Yes.

Q. To what address did you send those three bills? A. To First Continental.

Q. 5410 Wisconsin Avenue? A. Yes, to Mr. Robinson.

Q. Now, directing your attention to the month of April, late April of 1960, will you state whether or not you had occasion to discuss with any of these defendants at that time a speech? A. Yes.

Q. With whom did you first discuss a speech? A. With, I believe it was Mr. Robinson.

Q. Do you recall where that discussion took place? A. At the Statler Hotel, I believe.

Q. Do you recall who was present? A. Mr. Robinson—Mr. Edlin and I think he had left that day, and later Mr. Robinson and I continued our discussion in his room, I believe it was.

Q. What, if anything, was said at that time about his speech? A. Well, Mr. Edlin and Mr. Robinson suggested that it would be a good idea for a speech to be made. Of course, I agreed.

(Mr. Doub) May I interrupt. When was this?

(The Witness) In the latter part of April as I recall, 1960.

By Mr. Marion:

Q. Was anything said to you at that time as to who was to make the speech or as to where the speech was to be made? A. Nothing was said as to who. It was simply a speech to be made in the Congress at that time. That was my understanding.

Q. Did you at any time thereafter, or soon thereafter learn whether it was to be made in the House of Representatives or the Senate? A. I gathered that it was to be made in the House at that time. That was my recollection.

Q. Now, what exactly happened in the hotel room with Mr. Robinson, what was said or discussed or done at that time in that meeting with Mr. Robinson? A. Where?

Q. At the Statler. A. At that time?

Q. Yes. A. Mr. Robinson began to dictate a speech into the Dictaphone. He said a speech—something along these lines and I believe that on that time, he talked for a half hour or so and then decided that he would finish the speech or finish the draft of it when he got to Miami.

I believe he was leaving if I am not mistaken.

Q. Do you recall the substance of the half an hour of dictation of Mr. Robinson at that time? A. What?

Q. Do you recall the substance of that?

(Mr. Doub) Wait a minute. He did not say he dictated for 30 minutes. He said the meeting was for a half hour as I understood it.

By Mr. Marion:

Q. Did you say the meeting in the room was for a half hour or did he dictate for a half hour? A. Both, that was about it.

Q. What was the substance of the material which he dictated, if you can remember? A. Well, it was just sort of a replay of everything that had been discussed about the abuses of the independent savings and loan associations by the Federal Savings and Loan League or by the legislatures in Maryland and by various other detractors of the independent savings and loan industry.

It was pretty much just a re-hash of everything that had been discussed about that.

Q. Had you heard this general conversation before? A. Many times.

Q. From whom? A. Mr. Edlin, Mr. Robinson.

Q. Now, you say when Mr. Robinson finished, he indicated that he would send you a draft? A. Yes.

Q. Did you thereafter receive a draft? A. I received several of them.

Q. I show you what purports to be a letter and several papers attached and ask if you can identify that. A. Yes, sir.

Q. From whom did you receive that? A. Mr. Robinson.

Q. When is the letter dated? A. May 3, 1960.

Q. What is attached? A. It is a draft of a speech.

Q. What is the date on that? A. May 2nd, 1960.

Q. All right.

(Mr. Marion) I would like to offer this into evidence.

(The Clerk) Government exhibit 54 marked in evidence.

(Government exhibit 54 is marked in evidence.)

(Mr. Marion) Members of the Jury, this is a letter on the stationery of W. L. Robinson, Attorney-At-Law, Miami, Florida, dated May 3, 1960 addressed to Mr. Martin Heflin, 1727 - 19th Street, Northwest, Washington 9, D. C.

"Dear Martin:

"I enclose herewith copy of the preliminary speech draft which you patiently listened to in my room. No corrections have been made. I leave that in your most able hands.

"Highest regards to you and your lovely wife.
"Very truly yours,

W. L. Robinson."

A notation in the lower left indicates "Enclosure."

There was an envelope here which indicated that the letter was mailed by air mail, post-marked May 3, 1960, 9:30 a.m. and the enclosure is dated May 2, 1960 consisting of several typewritten pages labeled "From W. L. Robinson to Martin B. Heflin, Re proposed speech Re Institute Savings and Loan Industry."

I will not read the entire proposed draft at this time but we will exhibit it to the jury in a moment.

(The Court) Did it come to him in just a clean type or were there corrections on it?

Did it come that way or who made them?

By Mr. Marion:

Q. Mr. Heflin, when that draft arrived in your possession, was it just as originally typed without any penciled corrections? A. Yes.

Q. Who made the corrections on that draft? A. I did.

Q. I notice that in several instances throughout the body of that there is a notation included which says "Mr. Speaker," at appropriate points. Who included that in the draft? A. I did.

Q. What, if anything, did that indicate to you about by whom the speech would be made? A. Well, it would be made in the House of Representatives obviously. Other-

wise it would have been "Mr. President" if it had been the Senate.

Q. Now, I think, Mr. Heflin, when you first answered my question, about a draft or drafts of the speech, you said you received several drafts. A. Yes.

Q. Did there come a time later when you received additional drafts of a proposed speech? A. Yes.

There were several. I do not know how many. There was more than one.

Q. From whom did you receive those drafts? A. Mr. Robinson.

Q. What, if anything, did you do with those drafts? A. Some of them I edited and sent back to him and I guess I returned all of them to Mr. Robinson and we discussed them.

Q. What, if anything, concerned you about the timing at that time of this particular proposed speech? A. You say the timing?

Q. Yes. Was there any problem which you discussed with Mr. Robinson and Mr. Edlin or both? A. As to timing.

Q. As to the delivery of such a speech at that time? A. Oh, yes. By and large it was that it was not a speech.

(Mr. Doub) I did not understand that. Would you read the answer back?

(The record was read.)

By Mr. Marion:

Q. What do you mean by that? A. I mean there was not enough material, or there was not enough reason, rhyme or reason in this material to justify a speech.

Q. What, if anything, was your complaint to Mr. Robinson and Mr. Edlin about it? A. There was no timeliness in it. There was no reason to make the speech. This ma-

terial merely rehashed and recited these various abuses alleged or otherwise and it was not the sort of thing that I felt anyone could be justified in making a speech. There just was not a speech there.

Q. Nothing to hang your hat on? A. Yes, nothing to hang your hat on.

Q. Did there subsequently come to your attention anything which you felt might be something to hang your hat on? A. Yes. That was some weeks later. This newspaper story in the Washington Star.

Q. Before we get to that then, Mr. Heflin, let me ask you this. Did there come a time when you had occasion to meet Congressman Johnson? A. Yes, I met him.

Q. Do you recall approximately when that was. A. It was—it must have been in May. The first time I met Congressman Johnson was at luncheon and that was in May as near I can recall, April or May. I was a little hazy about that but I believe it was May as nearly as I can remember.

Q. Now, did you first go to Congressman Johnson's office? A. Yes, with Mr. Edlin and another gentleman—one of our associates, for a few moments and then we went to this hotel luncheon.

Q. What was the purpose of going with Mr. Edlin to Congressman Johnson's office as you understood from Mr. Edlin at that time? A. Merely to pick up the Congressman and go to lunch with him.

Q. Did he go immediately with you to lunch? A. No, he was detained. He was entertaining some constituents for lunch and he did not join this group until later. A few minutes later.

Q. Where was this lunch? A. At the Congressional Hotel.

Q. And you were there, I assume, for what purpose or in what capacity? A. Well, I was there as a public relations counsel of this Institute.

Q. What discussion if any was there at lunch pertaining to the Institute or to independent savings and loan associations generally? A. Well, this same discussion really, relative to abuses of the savings and loan industry and so forth.

Q. Go ahead. A. My contribution was merely confirming that, I felt that way, myself. I felt that there had been injustices done to independents and mine was more or less a saying "Yes" or corroborating this discussion.

Q. And you say Congressman Johnson was present at that time? A. Yes.

Q. What role did he play? A listener or a talker? A. He was listening.

(Mr. Doub) What was the answer?

(Answer read.)

By Mr. Marion:

Q. How, if at all, did that general discussion compare with the draft or drafts of the proposed speech which you had seen up to that time? A. It was pretty much a rehash of that, too. I mean, there was not very much that could be added to that. The draft or drafts of this material that I had received from Mr. Robinson pretty much said it all. It enumerated these various abuses and things of that sort and it was merely as I gathered it, to point out to Mr. Johnson then that the savings and loan industry in Maryland, the independents, were being jeopardized categorically and that it was not the right thing to do.

Q. Now, I think you indicated a while earlier that you discovered on May 27 the article in the Evening Star, right? A. Yes.

Q. Do you recall who, if anyone, was with you at that time? A. Yes, I recall it was Mr. Edlin and Mr. Robinson the afternoon the story broke—that it came out.

Q. Do you recall whether or not the article was brought to their attention at that time? A. Oh, yes, I brought it to their attention.

Q. I show you a photostatic copy of what purports to be a newspaper page and ask you if you can identify that? A. Yes.

Q. Do you recall the page or section of the paper in which that article was located? A. It says Section D, page 8.

Q. That would be the fourth section, page 8 of the Fourth Section of the Evening Star? A. Yes.

(The Court) Do you have any other copies of it, Mr. Marion?

(Mr. Marion) We just obtained the one photostat of that page which I think is from microfilm.

(Mr. Genn) Are you offering this in evidence.

(Mr. Marion) I propose to offer that, yes.

(Mr. Genn) I take it, it is not being offered for the truth of the facts stated but simply as some factor in the statement made in reference to a particular article but not for the truth or falsity of those statements.

(Mr. Marion) I think that is correct.

(The Court) Is that understood, Mr. Marion?

(Mr. Marion) Yes.

(The Court) The jury understands the purpose for which this is being offered.

(The Clerk) Government No. 55 marked in evidence.

(Government exhibit 55 is marked in evidence.)

By Mr. Marion:

Q. Just so we know specifically what we are talking about, Mr. Heflin, you were referring to the article in the upper lefthand corner of that page. A. Yes, that is right.

Q. Now, Mr. Heflin—

(The Court) I understand the statements in the article are not evidence in this case. It is just the fact that it appeared as the basis for what further testimony is given.

(Mr. Tydings) But the article is evidence. It is mentioned in the indictment.

(The Court) The article is in evidence but any statements in the article are not evidence of facts in the case.

(Mr. Tydings) Just that the article appeared.

(The Court) Yes. The witness' testimony that he brought it to the attention of Mr. Edlin and Mr. Robinson.

By Mr. Marion:

Q. After you discovered that article and brought it to the attention of Mr. Edlin and Mr. Robinson, can you state whether or not you had any occasion to meet Congressman Johnson again? A. It was some time after that.

Q. You did meet him for the second time? A. Yes.

Q. Where did you meet him on that occasion? A. In his office, I met there with Mr. Robinson.

Q. Were you and Mr. Robinson alone when you went to his office on that occasion A. Yes. Just he and I.

Q. What, if anything, did Mr. Robinson have with him then? A. He had a draft of this article, of course. It had been published for some time. I do not know how long.

Q. He had a draft? A. Yes. A draft of a speech.

Q. And he had a copy or copies of this article? A. Yes.

Now, when I say "copies of a speech" it was material you understand. Material for a speech along with this. And that was shown to Mr. Johnson. This article was as first evidence of the mistreatment of independent savings and loan associations.

Q. What, if anything, was discussed between you and Mr. Robinson and Congressman Johnson? A. Well, just what I said. The fact that this piece had categorically said that all Maryland Savings and Loan Associations were phonies and I thought from the standpoint of a one-time newspaperman, that it was categorically unfair. I still think so. The story is another thing, of course, it went on and was more specific than that headline but the headline is the thing that it was, what you call a "Scare" headline and I pointed this out to Mr. Johnson and so forth.

Q. Did you know then that Congressman Johnson was to make a speech? A. I did not know it until that time. At that time I inferred that otherwise it would be wasting his time to be there. I understood prior to going out there, whether it was that day or two or three days before, I do not recall, but I understood that Congressman Johnson was going to defend this industry in the State of Maryland.

Q. What, if anything, did Congressman Johnson do with the material which Mr. Robinson brought in and gave to him? A. As I recall, Mr. Johnson said that his administrative assistant, Mr. Buarque—

Q. Is that Mr. Manuel Buarque? A. Yes.—would go over the material, too and if I am not mistaken, Mr. Johnson called him in and Buarque took the material and I left the office with Mr. Buarque to discuss it some more.

Q. What happened to Mr. Robinson when you left with Mr. Buarque? A. He stayed with Mr. Johnson a few moments and then came out and we left.

Q. After that meeting did you at any time thereafter have any contact either with Congressman Johnson or his office with regard to the speech? A. I telephoned a time or two there and I think I was called by Mr. Buarque and asked him about certain figures that the Institute—background material that might be supplied, and I did supply additional material and I believe Mr. Buarque sent me

a draft, himself, with certain places, blank places for figures to be filled in. We had a discussion about some of the technical phases and information, statistical information and so forth.

Q. You supplied some of the facts and figures for the draft that Mr. Buarque sent you? A. Yes.

Q. What did you do with that draft once you had looked it over? A. Returned it.

Q. To Mr. Buarque. A. Yes. I do not recall whether I mailed it out there or dropped it off but I returned it to him.

Q. How long, Mr. Heflin, did you continue to act as public relations counsel for the Institute? A. I think it was until about the end of December. No, the latter part of January, I think it was or the first of February of 1961.

Q. Until when? A. Until February or, late January or the first part of February of 1961.

Q. Mr. Heflin, did you after the last time you saw a draft of the proposed speech, did you thereafter learn whether or not the speech had been given? A. Yes, I learned about it three days after. Two or three days after it was given.

Q. And did you have occasion to read the speech at that time? A. Yes.

Q. Did you have occasion to prepare any press releases based on that speech? A. Yes.

Q. To whom were those sent? A. They were sent to some trade papers, bankers, newspapers and magazines. One to the American Bankers.

I think that was the only one that was printed.

Q. To the American Bankers? A. Yes.

Q. I show you a copy of page 2 of the American Bankers of July 13, 1960 and ask you if you can identify that? A. Yes.

Q. Who prepared that article? A. I did. I wrote the release. It had been edited down.

(Mr. Marion) I propose to offer this.

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By Mr. Marion:

[Tr. 553-554]:

Q. In what capacity did you prepare that press release? A. As public relations counsel for the Institute.

Q. And at that time who was your boss in the Institute? A. Mr. Robinson.

Q. State whether or not that was prepared under his general supervision and direction? A. Of course it was. Anything that was done under his direction and supervision.

(Mr. Marion) I offer it in evidence.

(The Court) Did he see it or a draft of it?

(The Witness) I think so. It was just a release. It was sent out to the press gallery and frequently on some speeches, there are no releases prepared and in others it has to be called to the attention of the press. In the City of Washington, there are probably four thousand press releases ground out a day about one thing or another.

(Mr. Marion) We offer it now, Your Honor.

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[Tr. 556-577]:

By Mr. Marion:

Q. Mr. Heflin, I show you Government Exhibit 35 and ask you if you can identify therein any of the bills which are contained along with copies of various check vouchers. A. Yes, these are statements that I rendered.

Q. Those bills are directed specifically to what association? A. First Continental Savings and Loan.

Q. And the amount of your retainer fee which is included on each of those bills as I understood it is only a pro rata portion of your total monthly bill, right? A. Yes. There were three statements, this is one of the three.

Q. You have included on several of those bills which you rendered to First Continental certain expenses which you incurred in connection with your employment or your relationship with them? A. Yes.

Q. Look particularly at the first one in the folder, I think apparently by the date, it is the first bill rendered and indicates the date of your plane trip to Miami, does it not? A. Yes.

Q. April 1. A. April 1.

Q. And the third bill in there as I recall for the—rendered for I suppose—well, in June, has certain expenditures attached and memorandum from you summarizing those expenditures, does it not? A. Yes.

Q. And included among those expenditures is a reference to certain speeches of Congressman King? A. Yes.

Q. Under what circumstances did you obtain reprints of a speech by Congressman King? A. I was asked to call the Congressman's office and get some copies of the speech.

Q. By whom were you asked to do that? A. Mr. Robinson, I am sure.

Q. What is the date on which that speech was delivered or on which you sought to get those reprints? A. This says "King Speeches—Congressional Record, May 19, 1960." I do not know whether that was the date the speech was made I presume it is, the May 19 Congressional Record.

Q. Now, Mr. Heflin, at any time while you were engaged as public relations counsel for the Institute of Independent Savings and Loan Associations, did you have occasion to meet Congressman Boykin while in the company of Mr.

Edlin? A. Not directly in the company of. One afternoon I think, yes, I had had lunch with Mr. Edlin and I stepped out on the sidewalk in front of the Mayflower Hotel and saw Mr. Boykin, and said "Hello, Uncle Frank," I think. Everyone calls him "Uncle Frank," and I do, too. It is a little familiarity—

Q. Was Mr. Edlin with you at the time? A. No, he came out a few moments later. He had gone, I think he was telephoning or something, and he came out and the three of us stood there and visited for a moment and I left and Mr. Edlin left and Mr. Boykin left all separately.

Q. Could you tell whether or not at that time Mr. Edlin and Mr. Boykin knew each other? A. Oh, yes, they apparently knew each other. They said "Hello." They shook hands and said "Hello" as I did.

Q. And can you recall approximately when that instant occurred with relation to the speech of June 30, 1960? A. It was before—I am very hazy about that because it was such an offhand chance meeting.

Q. All right, now, also during the period of time when you were engaged in your work for the Institute, did you ever have occasion to discuss with Mr. Edlin an indictment which was then pending against him or did he have occasion to discuss it with you? A. It was mentioned. He mentioned it to me several times.

Q. Do you recall the substance of what was mentioned on those occasions? A. Well, that he was not very worried about it, I gathered from the conversation.

Q. Did he give you any reason why, in those conversations, he was not worried? A. Well, merely to say that he had friends on the "Hill" without mentioning any names.

Q. Did he indicate any further in substance what these friends on the "Hill," how they related to the indictment? A. No, not as to how they were related to the indictment. Except that he had friends on the "Hill". The implication was very clear.

Q. I am sorry. A. The implication was that he was—

(Mr. Genn) I am going to object to the "implication."

(The Court) Strike "The implication."

(Mr. Marion) All right.

By Mr. Marion:

Q. Give us the substance as best you can recall.

(The Court) If he did say anything about the implication, strike that.

(Mr. Marion) I do not think he got further than that.

(Mr. Doub) I object to the last question, Your Honor, because the witness has answered it twice, I think and he is now being asked it a third time.

(The Court) What is the question?

(Mr. Marion) I just asked him again to give me the substance of what was said. He started to go into implication.

(The Court) He was interrupted in the middle of his answer by Mr. Genn's objection.

Now, had you finished testifying to what Mr. Edlin said as distinguished from what you understood or implied?

(The Witness) My answer was simply that Mr. Edlin, No. 1, conveyed the impression to me that they were not—that he was not worried.

(The Court) We do not want impressions conveyed. You can tell us—

(The Witness) I could not tell you what verbatim Mr. Edlin said.

By Mr. Marion:

Q. I am asking you what, in substance he said to you on any of these occasions. A. That he was not worried about

the indictment because he had friends on the "Hill." That is substantially what it was.

(Mr. Marion) The Government has no further questions.

CROSS EXAMINATION

By Mr. Doub:

Q. When you spent two days in April in Miami at Mr. Edlin's request and you discussed reactivating or activating this savings and loan association, was Mr. Edlin very enthusiastic about his possibilities—the institute's possibilities? A. Yes.

Q. And he expressed the view it might develop into an association with hundred of members? A. Yes.

Q. And, as a matter of fact, didn't he express the hope that it would have representation in all the states of the country? A. Yes.

Q. Now, when you became public relations counsel to this Institute, I believe you said in March of 1960? A. No, it was in April.

Q. In April, 1960, you had business cards printed, did you? A. Business cards?

Q. Yes, a business card that showed on the card the name of the institute, the National Independent Savings and Loan Institute and then down in the lefthand corner was your name "Public Relations." A. I do not recall.

Q. You do not remember that. A. No.

Q. As a matter of fact, don't you remember, Mr. Heflin, giving Mr. Johnson one of those cards? A. No, not such a card. I do not think I ever saw such a card.

Q. You did not? A. The only thing I know that was printed was letterheads for the Institute.

Q. Letterheads were printed. A. That is all that I know of.

Q. Now, the exact name was National Independent Savings and Loan Institute, was it not? A. No. I believe it was the Institute of Independent Savings and Loan Associations.

Q. That was it, yes, sir. A. No, that had no National in it.

Q. Did that Institute issue monthly bulletins? A. No, sir.

Q. Did it issue some bulletins? A. I do not know what you mean by "bulletins". The only thing that you might characterize as a bulletin with that concern were the letters of solicitation for memberships.

Q. And they were written on the printed letterhead of the Institute? A. Yes, sir.

Q. Now, you mentioned having lunch at the Congressional Hotel with Mr. Edlin and you said you were joined there by Mr. Johnson? A. Yes, sir.

Q. I think you said before going to lunch there you and Mr. Edlin went by Mr. Johnson's office. A. Yes.

Q. Who else was with you? A. As I recall at the time, I thought it was Mr. Robinson. As I think back now, it could have been Mr. Robinson or Mr. Rains or anyone, or even Mr. Wyckoff or someone associated with the group. I know there was a third party there.

Q. How about Mr. Marshall Diggs? A. Yes, I believe Mr. Diggs was there. He was at the luncheon at the table. I am fairly certain he joined the luncheon group. As I remember, he did not go to Mr. Johnson's office with Mr. Edlin and the third man and myself.

Q. Who did you understand Mr. Diggs was, who—were you introduced to him? A. I knew him.

Q. You knew him? A. I have known him for a good many years around Washington, not well at all. I have met him on one or two occasions.

Q. He is a prominent lawyer of Washington? A. Yes.

Q. Wasn't the reason that you and Mr. Edlin went by Mr. Johnson's office, was it not to pick up copies of the King Speech? The speech by Congressman King. A. I do not recall that that was the reason.

Q. I think Mr. Rains, if any recollection is correct, said that yesterday. A. I do not know how or why that would be. I am just trying to think in my own mind why we would go to Mr. Johnson's office to pick up the King speeches. I do not connect that at all. I cannot see any reason for it.

Q. Well, as a matter of fact, when Mr. Johnson came in and joined you all in that lunch at the Congressional Hotel, wasn't that the first time that you met Mr. Johnson? A. Yes, sir.

Q. And you were introduced to him as the public relation man for this institute, were you not? A. Yes.

Q. Then, didn't you and Mr. Edlin tell Mr. Johnson how unfairly this industry of savings and loan associations was being treated? A. Yes.

Q. As a matter of fact, that was the principal subject of conversation at that luncheon, was it not? A. It took a great portion of the time I would say. Other things were discussed.

Q. That is right, and among them didn't Mr. Johnson talk to Mr. Marshall Diggs and Mr. Edlin about this Assateague Island Bridge project? A. We talked about the bridge or bridges. I have not the faintest idea what the Assateague bridge was or anything about it.

Q. Can you locate the date of that lunch in terms of the article published in the Star on May 27, 1960. Do you know whether it was before or after that? A. I would say it was before. I could not remember the exact date.

Q. Didn't Mr. Johnson ask you about the Institute which you told him you were connected with and did not you reply

that it is a national organization with offices in Washington. You told him that, did you not? A. Yes. We had offices in Washington but whether I at that time said it was a National organization, I do not know. As you suggested, yourself, we had hopes of being a national organization.

Q. Didn't Mr. Johnson then ask you how many members you had and you said only a few now, but you hoped to have a representative membership from all over the whole country. A. That was the hope. I did not specify any number because I did not know myself.

Q. That is right. Didn't you tell Mr. Johnson that you would like to come by to see him some time at his office? A. I do not remember that.

Q. Was there any reference to Mr. Johnson making a speech at that lunch?. A. There may have been because it would seem logical that there would have been. Otherwise we would not be taking up the Congressman's time to bend his ear about the abuses of savings and loan institutions for any other reason.

Q. Well, it could have been a hope that he might? A. Yes, I would say so.

Q. You all might have hoped he might make one at that time? A. I presume so, yes.

Q. Now, how long after that was it that you did go to Mr. Johnson's office? A. What is that?

Q. How long after that lunch was it that you did go to Mr. Johnson's office with or without Mr. Robinson? A. I do not know when the lunch was; so I could not tell you how long after that. It was a matter of I would think a couple of weeks or maybe three weeks.

At any rate it was after the publication of this Washington Star story.

Q. That is right. And when you went to Mr. Johnson's office, did you tell him about the Star article and discuss it with him? A. I think Mr. Johnson knew about it at the

time or his assistant at the time knew about it. There was no reason why it should not be known. It was published in the Washington Star, a lead story of the financial page. And whether I was calling attention to something that was not already known, I do not know. But certainly the story did call his attention to it, yes.

Q. You never had any conversations with Mr. Johnson personally about drafts of this speech, did you? A. Not that I recall, no.

Q. No, you did discuss it with his administrative assistant Mr. Buarque? A. Yes. Let me correct myself there. I did discuss it in a general way, the speech and the article at the time I went to Mr. Johnson's office with Mr. Robinson.

Q. Yes. A. I did that.

Q. And then Mr. Johnson referred you to his administrative assistant, Mr. Buarque, did he not? A. Yes.

Q. You were not asked by the United States Attorney anything about these reprints of the speech. As a matter of fact, the Institute ordered those reprints through Mr. Buarque, did they not? A. Well, the reprints. You mean of the Johnson speech?

Q. Yes. A. Well, I assume so. I do not think I, personally ordered them.

Q. Well, were they delivered at the address of the Institute? A. No, they were delivered to First Continental as I recall. We got some copies. Quite a considerable number.

Q. As a matter of fact, did you not, or someone else in the office of the Institute order those through Mr. Buarque? A. Well, they were ordered. Now, whether I directly placed the order for the number of copies, I just do not remember.

Q. You are not clear? A. They were ordered through the Institute, yes.

Q. That is right. Didn't Mr. Buarque say when they

were ordered, "Sure, but we are not going to pay for them; anybody who wants that speech must pay for it"? A. Certainly, that would be.

Q. Yes, now, Mr. Heflin, you know of no payments of money directly or indirectly ever made to Mr. Johnson with respect to that speech, do you? A. No.

Q. You never heard Mr. Edlin or Mr. Robinson or anyone else in that organization mention such a thing, did you? A. No, not in so many words; no, I never heard any reference to Mr. Johnson receiving money.

Q. Well, just tell us what you mean by "in so many words," sir. A. I meant just exactly what I said, using your phrase.

Q. I want you to use—I am using any kind of words that mean what I am trying to develop here. I do not care what the form of the words may be.

(The Court) What, if anything, did you hear, is the question.

(The Witness) Absolutely nothing about paying Mr. Johnson to make a speech.

(Mr. Doub) Absolutely nothing, that is right.

(The Witness) That is right.

By Mr. Doub:

Q. As a matter of fact, you told that to Mr. Tydings, did you not? A. I very probably did. I am pretty sure I did.

Q. And you told it to the FBI? A. Yes.

Q. And you told me that? A. Yes.

Q. Now, did you prepare this speech? You did not prepare this, did you? A. No.

Q. Don't you know that it was prepared by Mr. Buarque, Mr. Johnson's administrative assistant? A. That was my understanding.

Q. Now, you said that the Institute kept on hand copies of this speech of Mr. Johnson thereafter. The Institute also kept on hand copies of Congressman King's speech, did they not? A. Yes, we had copies there.

Q. Now, you testified this morning that you thought at the time the article in the Star criticizing this industry was unfair and you stated "I still think they are." A. Categorically.

Q. Categorically, you said. A. I refer specifically to the headline. Not the context of the story.

Q. Yes. Now, in the course of your association with Mr. Edlin, did he not reiterate and repeat to you that he was innocent of this charge that had been made against him? A. Many times.

Q. He said it was unfair and unjust? A. Yes, sir.

Q. What else did he say about this charge and its foundation? A. I did not hear you.

Q. Well, you testified he said it was unfair and unjust. He was innocent. Did he say who he believed had inspired it? A. By and large the Savings and Loan League, principally.

Q. The Federal Savings and Loan? A. Yes, sir. The United States Savings and Loan League and the Association of Insured Savings and Loan, and so forth.

Q. Did the Office of the Institute also keep on hand reprints of Congressman Ott's speech? A. Yes, we had some copies there.

Q. Didn't you tell Mr. Tydings that this charge that Mr. Johnson had made a speech for money was ridiculous and insulting? A. You say, did I tell Mr. Tydings that?

Q. Yes. A. How do you mean "tell Mr. Tydings." Do you mean to the grand jury or to Mr. Tydings.

Q. Didn't you just tell him personally when he inter-

viewed you? A. I do not recall saying that in so many words, no.

Q. Do you remember when I telephoned you on March 4, and talked to you about this? A. Yes, I do.

Q. What you knew about this case? A. I remember that.

Q. And I dictated a memorandum as to what you said?

(The Court) Mr. Doub, if you put that in, you will make yourself counsel and someone else will have to carry on the case. If you want to testify as to what you said, you may take the stand—you may ask him questions but it is on the understanding that you will be prepared to follow it up if he denies it and take the stand and let someone else who is here with you, your associates, carry on the case. You cannot undertake to testify, yourself.

You can continue until you take the stand.

(Mr. Doub) Thank you for the correction, Your Honor, and I accept the rebuff with good grace and that is all I have to ask this witness.

CROSS EXAMINATION

By Mr. Williams:

Q. Mr. Heflin, in response to a question by Mr. Marion concerning Congressman Boykin, you said that you had seen him once during 1960, I think, in front of the Mayflower Hotel in Washington. A. Yes.

Q. Is that the only time that you had seen him during that year? A. I think so, yes.

Q. Now, it was on an occasion when you left the Mayflower after having had lunch with Mr. Edlin. A. Yes.

Q. You and Mr. Edlin had lunched alone, had you, in the Mayflower? A. Yes.

Q. And you came out on to the street and Mr. Boykin came out? A. Mr. Boykin was standing on the street.

Q. And you were along at the time you saw him? A. Yes, sir.

Q. You spoke to him? A. Yes.

Q. Had you met Mr. Boykin before? A. Many times.

Q Where had you— A. Over a period of a good many years.

Q. Had it been in connection with your newspaper— A. Most everyone in Washington has met him.

Q. Had it been in connection with your personal newspaper career? A. Not in connection with that. I have been to various parties and things like that—dinners and social affairs and I think I have met Mr. Boykin once in Mobile during the war. It was an acquaintance.

Q. And you addressed him, you hailed him and greeted him and he responded? A. Oh, yes.

Q. And you stood there and chatted, did you? A. For a few moments.

Q. It was at this point that Mr. Edlin walked up? A. Yes.

Q. Mr. Boykin did not address Mr. Edlin by name, did he? A. I do not recall whether he addressed him by name. He shook hands with him but Mr. Boykin shakes hands with everyone.

Q. He shakes hands with everyone in Washington when he meets them on the street, is that not so? A. Just like they were a constituent.

Q. As if they were constituents or old friends. A. Yes.

Q. He shook hands with Mr. Edlin as though he were a constituent of his, right? A. Oh, yes.

Q. But he did not greet him by name? A. I do not recall any address by name.

Q. Mr. Edlin did not know who Mr. Boykin was until after you told him? A. He did not know who Mr. Boykin was?

Q. Yes. A. Everyone knows who Mr. Boykin is.

Q. I am talking specifically now about Mr. Edlin? A. Yes.

Q. Did you tell Mr. Edlin who Mr. Boykin was after Mr. Boykin left? A. Oh, I am sure I did not. I am sure Mr. Edlin knew who Mr. Boykin was.

Q. He knew who he was? A. I am sure he did.

Q. Now, how long did you talk there on the street? A. Oh, two or three minutes.

Q. Now, when you were talking to Mr. Marion or Mr. Tydings prior to your testimony you did talk to them before you testified here, did you not? A. Yes.

Q. Did they ask you about any contact that you had with Mr. Boykin during 1960? A. Only substantially what you are asking me now.

Q. You responded to them as you did here on the stand, that this was the only time you saw him to the best of your recollection in 1960? A. That is right.

Q. That is the only contact you had with Mr. Boykin in any respect in connection with the work that you were doing for the Institute of Savings and Loan Associations? A. Well, I saw Mr. Boykin, it was not in connection with any work. It was just "hello" in front of the Mayflower.

Q. There was not any discussion about that? A. None, whatsoever.

Q. Mr. Boykin never had anything to do direct or indirect with anything you did for the Savings and Loan Associations all during the time that you were working for them, did he? A. That is correct.

(Mr. Williams) That is all.

(The Court) Mr. Genn.

(Mr. Genn) No questions.

(The Court) Mr. Robinson?

(Mr. Robinson) No questions, Your Honor.

(The Court) Does the Government have any redirect?

(Mr. Tydings) The Government has no further questions of Mr. Heflin.

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(Vol. 8 [579]) Thereupon

BRADFORD WYCKOFF

a witness, having been duly sworn, was examined and testified as follows:

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Q. Directing your attention to the year 1958 did there come a time when you were employed by Mr. J. Kenneth Edlin? [580] A. Yes.

Q. Approximately when was that, Mr. Wyckoff? A. August, 1959.

Q. In what capacity were you retained? A. Advertising manager for First Continental Mortgage Corporation.

Q. Generally, what were your duties? A. To prepare newspaper advertising and mailing pieces.

Q. Did there come a time when you performed any similar type of services for the First Colony Savings and Loan Association of Prince Frederick, Maryland?

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[583] Q. At the time you returned were there any copies of a Congressional Record speech made by Congressman Johnson on the premises? A. Yes.

Q. And did you utilize these speeches in any way in your advertising program? A. Yes, in answering the correspondence.

[584] Q. And how would they be utilized? A. If someone raised a question of whether or not the accounts were federally insured, a copy of the Johnson speech would be enclosed.

Q. Were the accounts of either the First Colony Savings and Loan Association or the First Continental Savings and Loan Association insured by Federal Savings and Loan Insurance Corporation? A. No.

* * * * * *

[589] By Mr. Tydings:

Q. You do not have to. Just give the jury the best of your knowledge and recollection, the substance of what Mr. Edlin told you. A. The substance was that there were friends on the Hill, connections, who would assist him in proceeding to get the case dispensed with.

Q. Did Mr. Edlin ever mention any names of his friends on the Hill? A. In that manner, not specifically, no.

* * * * * *

(Mr. Tydings) No further questions.

(Vol. 9 [665]) Thereupon

RAYMOND J. DAVIS

a witness, having been first duly sworn, was examined and testified as follows:

* * * * * *

[666] DIRECT EXAMINATION

By Mr. Marion:

Q. Mr. Davis, where do you reside? A. In Berlin, I suppose you could say.

Q. Berlin, Maryland. A. We say Berlin, Eastern Shore.

Q. By whom are you employed? A. Exchange and Savings Bank.

Q. That is the Exchange and Savings Bank of Berlin, Maryland? A. Yes, sir.

Q. And you are the cashier and the officer in charge of that bank, are you? A. Yes.

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[697] CROSS EXAMINATION

By Mr. Williams:

Q. Mr. Davis, government exhibit 62 is a check in the amount of $800, right? A. Yes, sir.

Q. That was drawn on March 31, 1961 and deposited on April 7, 1961, is that correct? A. It looks like it; yes, sir.

Q. Now, that check was drawn on the Industrial National Bank of Miami, Florida, right? A. That is right.

Q. Now, when that check was entered on Mr. Johnson's ledger card as a deposit, it was conditionally credited to [698] his account, was it not? A. Yes.

Q. That was subject to be—

(Mr. Tydings) Do you understand that question, Mr. Davis? Don't hesitate to ask Mr. Williams if you have any question.

(The Witness) Anyway, it was credited to his account the day it came in.

(The Court) There was a word in there that had important legal consequences. Conditionally credited.

(The Witness) I do not know what that means. What do you mean by that to make sure?

(Mr. Williams) I will tell you what I mean by it, Mr. Davis. I mean in case that check bounced, you would debit his account, would you not?

(The Witness) We certainly would.

By Mr. Williams:

Q. So, it was a conditional credit on April 7? A. All of them were that way. I will put it that way right now.

All other depositors that we have that is true of.

Q. All of the checks that you testified to today would have that same rule apply, is not that so? A. That is so.

[699] Q. Now, you did not find out whether that check cleared or whether it bounced for several days after you credited it on the ledger cards, did you? A. We did not.

Q. How do you find out? Do you find out from the clearing house? A. They come back through regular channels. They were sent out from our exchange through regular channels and unless they are protested, then you hear right away.

Q. What would be the channels for a check going to the Industrial National Bank of Miami? A. We would send it to Baltimore and then to the Federal Reserve and Federal Reserve takes care of it in Miami.

Q. Where is the Federal Reserve clearing house located as far as you know? A. Baltimore. We put Baltimore, Maryland on it.

Q. You sent it to Baltimore? A. We send it to our correspondent.

Q. What about checks that would be drawn on the Bethesda Chevy Chase National Bank? A. They would go the same way. They all go through the Federal Reserve.

Q. Which Federal Reserve Clearing House would it go through?

[701] Actually, is it not the fact, Mr. Davis, that the credit to Mr. Johnson or any other depositors' account does not— A. Let us say any other depositor of good standing because all the depositors are not classified the same way. Mr. Johnson is in good standing.

Q. I will adopt your amendment and restate the question.

Is it not true that the credit to any depositor's account who enjoys good standing, be he Mr. Johnson or anyone else, does not have a final credit which can not be removed until the check has cleared on the drawee bank? A. I suppose. I do not know what you mean by "any way."

(The Court) If he does not know what you mean, I think that is all he can answer. He has testified that if the check bounced, he would debit the account.

(The Witness) Sure, we do any time. I mean when a check comes in of any size—and it goes through, if we hear no further from it, the depositor hears no further from it. If the check comes back, the depositor is notified right away.

By Mr. Williams:

Q. So that the check is not finally credited until [702] there is clearance at the drawee bank, is not that so?

(Mr. Tydings) I object to that, Your Honor, that is not what the witness said.

(The Court) Objection sustained. The Court will have to instruct the jury on the law on the matter and you will have to argue the facts from what the witness has told you of the facts.

Now, he says he does not know what the word "conditional credit" means. If he does not know what it means, and if that is going to be the controlling expression that the members of the jury are going to have to pass on—which I do not intimate one way or the other until I hear the argument on the law—you will just have to get the facts from the witness that he knows and then argue to the jury how that fits into the law as the Court will have to give the jury the law. I do not think that you can get him to give you an answer which is a mixed question of law and fact, especially if he does not know the meaning of the question.

(Mr. Williams) I am really not trying to elicit any opinion on the law from him. I am trying to find out when the credit becomes final but I will desist here. I have no further questions.

(The Court) Any further questions, Mr. Williams.

(Mr. Williams) I would like to ask the witness [703] a question, Your Honor. I do not intend it to circumvent Your Honor's ruling. If Your Honor feels it is a circumvention, I will withdraw it.

(The Court) Fine. I want you to get all the facts you can from it but I think it has to be couched in words that he understands.

(Mr. Williams) All right.

By Mr. Williams:

Q. As I understood your testimony, Mr. Davis, if the check bounces, you revoke the credit that is given the depositor on the card? A. We charge it back to his account. I do not know if you say it is revoked. He generally has funds to cover it or if not, he will have to get the funds there.

Q. Does there come a time in your routine practice and custom as a banker at the Exchange and Savings Bank at Berlin when you can no longer revoke that credit for a particular check? A. No.

Q. It does not? A. Well, of course, there is a time. It cannot stay in the other bank. If it is not good, they have got to send it back and, of course, that only takes four or five days for them to do that. If they do not send it back, why, of course—

[704] Q. If they do not send it back, you allow the credit to stand? A. Surely.

Q. Thereafter you cannot revoke the credit on that check? A. No, because if they do not—I do not know what you are getting at because we have never had any experience like that.

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(Vol. 10 [762]) T. LAMAR CAUDLE

a witness, having been first sworn, was examined and testified for the record as follows:

(The Clerk) State your full name for the record.

(The Witness) Theron Lamar Caudle.

(The Clerk) Take the stand, please.

DIRECT EXAMINATION

By Mr. Marion:

Q. Mr. Caudle, where do you reside? A. Waynesboro, North Carolina.

Q. Are you an attorney? A. I am an attorney.

Q. Do you practice law in Waynesboro, North Carolina? A. That is my home town. I was born there and I practice law there, yes, sir.

Q. Waynesboro is about fifty or sixty miles southeast of Charlotte, North Carolina, is it not? A. Fifty-three.

Q. Near the South Carolina border. A. It is about fourteen miles from South Carolina.

Q. Now, Mr. Caudle, just by way of background, in 1940 you were appointed a United States Attorney for the [763] Western District of North Carolina, were you not? A. Yes, I was nominated by Mr. Roosevelt.

Q. And served in that position until 1945? A. Yes, I was renominated again. It is a four-year term. I was renominated again by the President in 1945 and confirmed after the nomination, of course.

Q. In 1945 you were appointed assistant attorney general in charge of the criminal division of the Department of Justice, were you not? A. Yes, by President Truman, by Mr. Clark.

Q. And remained in that specific capacity until 1947 when you became the Assistant Attorney General in charge of the tax division? A. In September, 1947 and then he ordered me transferred as supervisor of the Tax Division.

Q. How long did you remain as attorney in general

charge of the Tax Division of the Department of Justice? A. Four years.

Q. Until when? A. November 16 at 3 o'clock in 1951.

Q. At that time your services were terminated by the President? A. Absolutely.

Q. Now, thereafter, Mr. Caudle, did there come a [764] time when you were indicted by a Federal Grand Jury in St. Louis, Missouri? A. Yes, sir, I think everybody knows that. They ought to.

Q. You were indicted with Matthew Connolley, and a lawyer by the name of Schwimmer, is that correct? A. That is correct.

Q. That was in 1955. A. The indictment was returned on December 1, 1955.

Q. And there was a trial in that case in St. Louis in the spring and summer of 1956, is that correct? A. Yes, sir, it is a long trial. It was six weeks, began on May 4, 1956 and ended on June 14.

Q. And at the conclusion of that trial you were found guilty, were you, and Mr. Connolley? A. Yes, sir, we were found guilty of conspiring together to deprive the government of our best services.

Q. This indictment involved your alleged activities while you were an assistant attorney general? A. Yes, sir.

Q. Now thereafter did you have occasion to engage in a number of appeals including appeals to the Supreme Court and motions for a new trial? A. Oh, yes, that was a pretty long process. We [765] had to go into the 8th Circuit. That was the District that the 8th Circuit was in. From there we lost. We tried to get in to the Supreme Court, with a petition for a writ of certiorari and it was denied.

Q. All right. Do you know any or all of the four defendants involved in this case? A. Yes, I know all of them.

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[766] By Mr. Marion:

Q. Mr. Caudle, during the period of time you were engaged in your appellate litigation in connection with the trial at St. Louis, did you have occasion to [767] meet the defendant J. Kenneth Edlin? A. Yes, I did.

Q. Do you recall when it was that you met Mr. Edlin? A. It was in March, 1959.

Q. And do you recall where you were when you met Mr. Edlin in March of 1959? A. I was in my room at a suite I had at the Alkazar Hotel on Biscayne Boulevard, Miami, Florida.

Q. Were you introduced to him by mutual friends? A. Yes, Mr. Frank Nathan was the one who introduced me to him. I knew him.

Q. What conversation transpired between you and Mr. Edlin at that time? A. It is hard to be exact except we talked quite a bit there. He said he knew all about me, of course, heard about me and was very much interested in me and he said, he told me about an unpleasant experience he had had in Chicago, himself, and was very sympathetic and he said that he would, if I lost my case and had to go, for me not to wory about any litigation or legal assistance because he had plenty of work for me to do if I would take it.

Q. He had what? A. Plenty of work for me to do as an assistant [768] attorney if I would do the work. That was the substance of the conversation.

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Q. Did there come a time in 1959 when you learned of an indictment against Mr. Edlin? [769] A. Yes, sir.

Q. And do you recall where you were when you learned that and how you learned that? A. Well, I do not know exactly where I was or whether Mr. Edlin called me on the telephone and told me about it or whether I saw some account of it but I know I found out from him and he and others—Miss Edlin, his sister, and Mr. Jackson Rains and

First Colony Savings and Loan Association in Maryland were indicted.

[770] (Mr. Genn) May we approach the bench, please?

(The following took place at the bench, out of the presence of the Jury:)

(Mr. Genn) Your Honor, so that there will be no waiver, he is speaking about a conversation with Mr. Edlin, and I believe any conversations this witness has had with Mr. Edlin should not be admissible. I think the Government is going to be opening up the door before we have a chance—

(The Court) The question is how far do you contend your privilege goes? What is the privilege going to be? Do you contend that Mr. Edlin engaged Mr. Caudle to act as his attorney in connection with various matters?

(Mr. Genn) Yes.

(The Court) Attorney as such?

(Mr. Genn) Yes.

* * * * * *

[772] (The Court) The basis of the privilege is an attorney may not testify to what his clients told him, and he may not testify as to advice which he gave his clients.

(Mr. Genn) Or those people who participated in the decision making process are just as much a part of that privilege as are the direct parties themselves, should it be a secretary, the agents, the employees, who are participating in the decision making process of attorney-client. They are as much a part of this.

* * * * * *

[782] Q. And what did you do then, return home to Waynesboro? A. Oh, yes. I returned hime to Waynesboro and cleaned out of Tallahassee. There were about fifteen reporters and photographers, and it was hard to get out of the place, and I got home that night.

Q. Did there come a time thereafter that you heard again from Mr. Edlin? A. Oh, yes, sir.

Q. And what, if anything, did he have in mind for you to do at that time?

(Mr. Genn) I object to that. First of all, the form of the question is calling for an impression.

(The Court) I will sustain the objection to the [783] question as asked at this time. Now, if you want to make a proffer, and maybe we can agree whether it would be better to ask a narrow leading question, narrower question, at the risk of being leading, or whether it is totally inadmissible or what you want to do. Do you want to talk about that?

(Mr. Tydings) I think we understand the Court's ruling. We can ask a narrow, leading question so we can protect Mr. Genn's rights.

(Mr. Genn) We will hear the question.

(The Court) Be careful if you have a doubtful question not to ask it in a way so that I will have to tell the jury to disregard it. Be careful.

(Mr. Marion) If you prefer we can come up to the bench and proffer the question.

(The Court) By asking a narrow leading question we can keep it in bounds, but there is also some danger of making suggestions which I might have to tell the Jury to disregard. I would rather hear the proffer in connection with this particular question out of the presence of the jury.

(Bench conference out of the presence of the Jury:)

* * * * * *

[788] (End of bench conference, when the following took place in open Court:)

(The Court) I think that the Jury may know this much of the nature of what we have said. There is a rule of law that communications between an attorney and his client are privileged, so that a client may talk to his attorney freely and may get advice from the attorney freely. Now, that is a general rule.

The particular application of that, or its possible application here, has presented certain possible difficulties which we have had to talk about, and so questions may be narrowed a good deal.

Go ahead.

By Mr. Marion:

Q. Mr. Caudle, directing your attention to the early part of 1961, did there come a time when you came [789] to Washington or Maryland for the purpose of performing legal work for the First Continental Savings and Loan Association? A. Yes, sir, on a part-time basis, off and on.

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By Mr. Marion:

Q. Did you have occasion to hear the name of Congressman Johnson? [790] A. Yes, sir.

Q. And from whom did you hear his name? A. From Mr. Edlin.

Q. And what did Mr. Edlin say about Congressman Johnson?

(Mr. Genn) This is a violation of what the Court has specifically instructed, and this is prejudicial to emphasize this.

(The Court) I will sustain the objection unless you have any possible admissible conversation that you can make the proffer. You cannot talk about conversations between them, because the relationship was either attorney-client or so close to attorney-client that we are now going to treat it as such unless you want to treat it different. You can have him testify to what, if anything, he did, not as to what, if anything, Mr. Edlin may have told him or said to him or may not have said. I don't intimate that Mr. Edlin did say or didn't say. Go ahead.

By Mr. Marion.

Q. Did you have occasion thereafter to meet Congressman Johnson? A. I did.

Q. Where did you meet him? A. In his office.

Q. In his congressional office?

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[792] Q. What, if anything, took place when you first met Congressman Johnson? A. There was discussion in the presence of Mr. Edlin and Mr. Robinson about the indictment that involved Mr. Edlin, his sister, First Colony Savings and Loan Association and Mr. Jackson Rains.

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[793] By Mr. Marion:

Q. All right. You were starting to say what you explained to Congressman Johnson at that meeting. A. I explained to Congressman Johnson that an indictment was an instrument where the grand jury found probably cause to allegations of some violations of the Federal law or a state law, for that matter, and that it was extremely difficult and very hard, unless it could be overwhelmingly shown that the Government was in error, to have the indictment once it was returned dismissed; that it was very rarely ever when I was associated with the Department of Justice that an indictment was dismissed, but indictments were dismissed when it was conclusively shown that the Government was in error by its own attorneys, and they were dismissed.

Q. What, if anything, did Congressman Johnson say [794] when you advised him of that? A. Congressman Johnson, from my conversation with him, we didn't go into the merits at that time, but he was very much familiar with the subject. I had been with the subject off and on.

Q. What did he say when you advised him what you just indicated? A. He said that was true; that it was a very difficult thing, even in the state courts, after the indictment had been returned because the grand jury had found probable cause.

Q. What, if anything, did Mr. Edlin say at that time? A. I do not know what Mr. Edlin said at that time. Mr. Johnson was a lawyer and I was a lawyer. He listened a

great deal, particular when I described again—I had done it before—the procedures that ought to be followed to bring this thing into focus. The indictment contained 31 paragraphs. It was a long instrument, and any attorney reading it would have to read it over and over and then have many conferences before the thing would become in focus to him, in my opinion. I told Mr. Johnson that, and I told Mr. Edlin that.

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[795] By Mr. Marion:

Q. What, if anything, can you recall had been said by anyone prior to the time when you made that remark you testified to? A. Well, I explained—I had explained to Mr. Robinson and Mr. Edlin that the procedures of the Department of Justice, when I was there as an Assistant Attorney General in the Criminal Division—

(The Court) Wait a minute, Mr. Caudle.

[796] (Mr. Genn) Who was present in these conversations? Who was present in the conversation you are just relating?

(The Witness) Mr. Edlin and Mr. Johnson and Mr. Robinson. We were all together.

(The Court) I think that what Mr. Genn had in mind was that, from the way you put it, it looked like you were telling of something you had told Mr. Edlin and Mr. Robinson, not in Mr. Johnson's presence. He was asking whether it was a communication?

(The Witness) No, sir, just a general policy that the Department of Justice has.

(Mr. Genn) Your Honor, if the Court please, I don't like to be going to the bench regularly on this matter, but I think it is necessary that we approach the bench one further time.

(The Court) All right.

(The following took place at the bench, out of the hearing of the Jury:)

(Mr. Genn) We have this difficulty with the same problem, Your Honor. The only thing I can say of this conversation that would make this admissible or any of this discussion is the fact that Mr. Johnson's presence is apparently some third party, and this was not given in relation to the confidential relationship between [797] Mr. Caudle, Mr. Robinson and Mr. Edlin.

(The Court) It might be admissible as an act in furtherance of the conspiracy, not as evidence that the conspiracy existed, but as an act in furtherance of the conspiracy.

* * * * * *

(Mr. Genn) Mr. Johnson was an attorney. There were three attorneys there, and Mr. Edlin.

(The Court) There is no evidence in the case so [798] far that Mr. Johnson was acting as attorney for Mr. Edlin or for anybody else, and Mr. Johnson has denied that he was paid for being employed to do this or being paid for doing it, and there is no evidence up to this point to prove that he was acting as an attorney for Edlin in approaching the Department of Justice. Now, I don't know what the evidence is going to show.

(Mr. Genn) I have indicated just for the record an objection on this line. It seems to me that it was given in the area and characterization of a confidential communication. Now maybe I don't know the position Mr. Johnson is finally going to take in reference to this.

(The Court) But there hasn't been a word of testimony yet that Johnson was employed to act as an attorney by Edlin in this connection, is there?

(Mr. Robinson) The witness himself just said that in his conversation that Mr. Johnson as a lawyer and Mr. Edlin as a layman had little to say in the conference. He specifically referred to Mr. Johnson as a lawyer.

(The Court) Yes, but the lawyer-client privilege doesn't allow an attorney and client to violate the law.

(Mr. Robinson) But it does allow him to consult with other attorneys, doesn't it?

[799] (The Court) If that is what this purports to be. I had not realized that this was what this purported to be. It was not a consultation with another attorney.

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[801] At the Bench:

(The Court)

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[803] (Mr. Genn) I think they ought to be limited to stating what he did or facts, and I think that they should be prevented from showing communications between Edlin and Caudlin in this relationship.

[804] (The Court) These are not communications between them. When they go with him to see Johnson to get Johnson to do something.

Now, everyone—there is no doubt that, as far as I can see, nobody denies that it happened and it would be a perfectly proper thing for Mr. Johnson to do if he did not get paid for doing it. So that I do not see what the—

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(Vol. 11 [814]) By Mr. Marion:

Q. Mr. Caudle, at the close of the day yesterday, you were being asked about the discussion which took place either the first or second time when you met Congressman Johnson in his office in the House Office Building? A. Yes, sir.

Q. And you indicated that you made some comment at that time about the difficulty of getting an indictment dismissed. A. That is correct.

Q. And my question to you is what, if anything, do you

recall having been discussed which led you to make such a remark at that time?

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[816] (The Court) Now, before he answers, let me make this caution that I did say I would make to Mr. Caudle. Just remember to answer the questions that are put to you because you realize, as well as we do, that there are certain border lines of privilege, certain things you can testify to and certain things that you can't.

(Mr. Marion) May I ask the reporter to read back my question where the objection came somewhat earlier?

(The reporter read the record as follows:

"Q. And my question to you is what, if anything, do you recall having been discussed which led you to make such a remark at that time?

"A. Well, I had been—")

By Mr. Marion:

Q. Do you understand the question? A. I think I do. I thought you were asking—read it one more time so I can be sure of the question.

Q. The question was what, if anything, had been discussed at that meeting which led you to make the remark which you made with regard to the difficulty of getting the indictment dismissed? A. We discussed the indictment.

(The Court) There is quite a difference between an indictment and the indictment. You can not ask him [817] anything that had been said by the people which would lead him to make any remark about a particular—the particular indictment.

(Mr. Marion) I corrected that.

(The Court) The testimony as he gave yesterday, as I recall it, was admitted because he was talking in general terms about the difficulty of getting an indictment generally dismissed.

(Mr. Williams) Your Honor, may I say on behalf of the defendant Boykin, that we, of course, do not object to this and I do not think that this testimony, Your Honor, is privileged because of the presence of non-lawyers in that meeting.

(The Court) What position does Mr. Doub take on that?

(Mr. Doub) Your Honor, I agree with that. I do not see how it could be under the conditions we are talking about.

(Mr. Williams) Perhaps I misspoke myself. I said non-lawyers in the meeting. I mean to say, Your Honor, the presence of lawyers who were not in a representative capacity to Mr. Edlin.

(The Court) Within the meaning of the rule from a professional legal adviser in his capacity as such, which is the No. 2 element in Wigmore.

[818] (Mr. Genn) I have already stated my position for the the record.

By Mr. Marion:

Q. All right, Mr. Caudle, let me withdraw that question.

How many conferences do you recall sitting in on in Congressman Johnson's office in connection with this particular matter? A. That was probably three or four maybe on this subject.

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Q. All right. Now, as a result of those three or four conferences, was any decision reached as to something [819] which you would do? A. Yes, sir.

Q. What was that? A. That, with the assistance of Mr. Robinson, we would analyze and prepare an analysis of the 31 paragraphed indictment.

Q. And with whom did you discuss that? A. Congressman Johnson in the presence of Mr. Edlin and Mr. Robinson.

Q. What do you recall Congressman Johnson saying about the preparation of such an analysis, if anything? A. He thought that my idea about the matter is proper and that it ought to be done.

Q. And what, if anything did he ask you to do? A. He asked me, would I and Mr. Robinson work on the matter and prepare it? I told him I would but it could not be done in Washington because there were no facilities there to do the work.

Q. And what do you mean by "no facilities" there to do the work. A. There was not any legal secretary.

Q. Where? A. In the First Continental Savings and Loan Association. There was no office and I simply did not have any place to work and neither did Mr. Robinson have on [820] the matter of this indictment analysis.

Q. And so what, if anything, was done as a result of that conversation? A. In consequence of that conversation Mr. Robinson and I flew to Miami, Florida.

Q. And can you recall when it was that you flew to Miami, Florida? A. Yes, it was around about March 18, 1961. We were there for four days, if I remember.

Q. And what did you do while you were in Miami? A. Went to Mr. Robinson's office where he had a very able secretary and he was very well saturated, I would say, with the facts so he was to dictate it. I was to be present and we were to be as minute and accurate as we could on the facts as to each paragraph, and that went on all day and into the night as long as we could take it, the next day, the next night, the next day and the next night. Then it took a day as I remember for it all to be typewritten.

Q. And what was your function in connection with that? What actually did you have to do with it? A. I was really supervising the analysis and you might say I was co-author of it with Mr. Robinson.

Q. Was a draft being prepared as it was being dictated? [821] A. I think so, yes, sir.

Q. And what, if anything, to the best of your recollection was done with copies of that draft as it was being prepared? A. I think Mr. Robinson furnished Congressman Johnson, the best I can recall, with the copy.

Q. Do you recall approximately how long you stayed in Miami? A. Yes, sir, we stayed there until March 18 to the 23rd as far as I can recall.

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Q. What, if anything was done with that analysis upon your return to Washington? A. You mean what we did with it?

Q. Yes. A. Gave it to Congressman Johnson in his office.

[822] Q. Who was present when you gave it to Congressman Johnson in his office? A. I know that Mr. Robinson and I were together, and whether Mr. Edlin was along at this time, I do not remember.

Q. All right. What, if any conversation took place at that time? A. Congressman Johnson said that he wanted to study it thoroughly and he would talk with us again about it. As I remember, the best I can remember.

Q. Did you have occasion to discuss it further with him? A. Yes, sir.

Q. Do you recall how soon thereafter that was? A. I do not remember but it was pretty shortly after that. He said he studied it very carefully. He was very much impressed with it.

Q. Who was present on this occasion when he said he had studied it? A. Mr. Robinson was present I remember, and Mr. Edlin.

Q. Who else was present, if any one? A. Congressman Boykin came in along about that time for a few minutes

and he would not stay but a few minutes, maybe once or twice. Could have been three times. I do [823] not know. Not in one day. This analysis—well, I am not—

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By Mr. Marion:

Q. Finish what you planned to say. A. Mr. Boykin came in for a few minutes. He never stayed long. I think he came at least two times if I can remember. I do not think—He spoke to everybody in the office as he usually does and I did undertake to explain this thing to him, a long analysis on a 31-paragraph—31 page indictment, and it was prepared for the purpose of presenting to the Department of Justice for it to be reviewed and evaluated on its merits.

[824] Q. How did you know that? A. How did I know that?

Q. Yes. A. Well, I knew. I had told Mr. Edlin and I had told Mr. Robinson and I told Mr. Johnson that the Justice Department was an institution of record and that the only way that the defense of Mr. Edlin and his sister and First Colony, and Mr. Jackson Rains could be brought into force, this analysis would have to be prepared and should be left with the Justice Department and those in the Criminal Division who would administer the statute. They would be the ones that would have to study it and evaluate it to get any action on the merits of the matter.

Q. What, if anything, was discussed about the Department of Justice, and who might be contacted there? A. Oh, Congressman Boykin said that he knew the Attorney General, Mr. Kennedy, and as I understood, Congressman Johnson did not know him, and that they would take [825] it over and present it to Mr. Kennedy, that they would go over and have a conference with the Attorney General at his level because they were members of the House.

Q. Because they were Congressman? A. Yes, that is right.

Q. Do you know whether, shortly thereafter, that particular conference, anyone did go to the Department of Justice to see the Attorney General? A. Yes, sir.

Q. How do you know that? A. Because Mr. Edlin and Mr. Robinson kept up with Congressman Johnson's office, one of the two, and they wanted to know what was the reaction and the reception they received on the subject and so we went back to Congressman Johnson's office.

Q. Who was present when you went back to Congressman Johnson's office? A. I know Congressman Johnson was there and, of course, his secretary and force were out of the office, Mr. Robinson and Mr. Edlin were there.

Q. Was Congressman Boykin there? A. I think Congressman Boykin came down a few minutes after we were there for a little while.

Q. What, if anything was said during that time?

[826] (Mr. Williams) During what time?

(Mr. Marion) During the time when Congressman Boykin, Mr. Edlin and Mr. Robinson were present with you.

(Mr. Williams) At any time that the four were there?

(The Court) It was, altogether, five.

(Mr. Marion) The four defendants and Mr. Caudle.

(The Court) Mr. Johnson, Mr. Boykin, Mr. Edlin and Mr. Robinson were there with the witness.

(The Witness) Mr. Boykin stated that Mr. Kennedy was very patient with them. That he knew very little about the facts if any at all, but Mr. Johnson was the one who presented it to Mr. Kennedy, and I recall that Congressman Boykin said that Mr. Johnson made a very able presentation of the matter and that he just sat and listened.

By Mr. Marion:

Q. Do you recall anything else discussed at that time? A. No, sir, except neither one of the gentlemen gave any

encouragement about the reception because it was to be left there and then the Attorney General, of course, would forward it down to whoever administered the statute.

Mr. Miller, the Assistant Attorney General in the [827] Department of Justice—

Q. Do you know whether or not either Mr. Boykin or Mr. Johnson went back again to the Department of Justice after that? A. I believe they did. I think they did, Your Honor.

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[828] By Mr. Marion:

Q. Do you recall how you knew they went to see Mr. Miller? A. My best recollection is that it was later on. I was there again and we went back to Congressman Johnson's office, if I remember and he said they went over and had a conference with Mr. Miller. That is my best recollection, Mr. Marion. That is the best I can do.

* * * * * *

[835] By Mr. Marion:

Q. Mr. Caudle, would you state what legal work if any, you performed for First Continental Savings and Loan Association in the office of First Continental Savings and Loan Association in 1961? A. Well, in 1961 I was in many conferences with Mr. Edlin and Mr. Robinson—groups of people who were potential borrowers. One of the matters that I remember, I went through the file from the beginning—was money that First Continental and I believe First Colony, too, had loaned to an architect by the name of Cassell.

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Q. What, if anything, did you do in connection with the loan to him? A. Of course, I read and studied the underwriting agreement which had been prepared by someone—perhaps Mr. Robinson. I examined—I wanted to check into the [836] insurance company that insured it and I was anxious to know the certificate of title, who prepared it, and as I remember the various deeds, I mean deeds of trust

were made on separate lots that had been sold by Mr. Cassell to various people and the notes and the deeds of trust securing the sale of these lots were made and the balance were all in this file. There were a large number of them.

* * * * * *

Q. Did you also have occasion to participate in any conferences in the office of the Washington attorney by the name of Lykes Boykin? A. Oh, yes.

[837] Q. In connection with what matter, sir, did you sit on conferences there? A. Mr. Arthur Desser, whom I met for the first time in Mr. Lykes Boykin's office—

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By Mr. Marion:

Q. Do you recall approximately when you first began sitting in on conferences involving Mr. Desser? A. I can say that it was sometime around the latter part of February or early April of 1961.

Q. Now, what was the purpose of those conferences? A. Mr. Desser was president of a corporation and, as I recall, Leftcourt Realty Company. This corporation owned 8,000 acres of land in Waldorf, Maryland which is 23 miles from Washington.

Q. Do you know from whom they had acquired that land? A. I understood that it was purchased from Mr. Albert Ernest of Jacksonville, Florida. He had the note of the deed of trust as I remember—Mr. Albert Ernest.

Q. Had you met Mr. Ernest prior to that time? A. Yes, sir, Mr. Albert Ernest at that time was [838] dealing with cancer. He nearly died and I had known Mr. Albert Ernest before then.

Q. Now, whom had you met Mr. Ernest through? A. Through Congressman Boykin.

Q. Was anyone acting or holding a power of attorney for Mr. Ernest at the time you were engaged in conferences

with Mr. Desser? A. I think Mr. Boykin had a power of attorney.

Q. Which Mr. Boykin? A. Frank W. Boykin.

Q. Congressman Boykin? A. Yes.

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[839] Q. Who was present representing Mr. Edlin in those conferences? A. Mr. Robinson was there with me, * * *

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[842] Q. With whom did Mr. Edlin want you to negotiate?

(Mr. Genn) If the Court please, we are in the same difficulty we have been in previously. I do not understand. Who was present in this conversation, Mr. Caudle? [843] A. You mean the one I am talking about?

(The Court) You say Mr. Edlin wanted you to negotiate so that the savings and loan associations could buy the note from Ernest, was what I understood. That is the meeting—

(Mr. Genn) Yes.

(The Court) Who was present at such a meeting?

(Mr. Williams) This cannot be any privileged communication, Your Honor.

(The Court) I think he is just fixing the time or fixing who was there.

(The Witness) This was not any meeting.

(Mr. Genn) May we approach the bench, if the Court please?

(Bench Conference.)

(Mr. Genn) Now, if the Court please, previously Mr. Williams made some response and volunteered a statement with reference to a conversation as to Congressman Johnson.

Now, of course, I have no statement with respect to what Mr. Williams feels necessary for the protection of his client but I do not believe that it is appropriate for counsel to simply volunteer this type of information if the Government has no objection. The last statement, it seems to me, falls within the category of a volunteered statement, too.

[844] If these conversations are conversations and communications between Mr. Caudle and Mr. Edlin, what they discuss between themselves as to what Mr. Edlin desired to do, I think is privileged between them.

(The Court) Did he negotiate to get a loan?

(Mr. Genn) If the Court please, I think the characterizations of the way he did it may be in dispute or the way he has testified. I am simply stating that I think these conversations should not be admissible and that all that should be admitted is what he did.

(The Court) But he had to show that he did it at Edlin's request or instructions.

(Mr. Genn) Well, he is stating what Mr. Edlin wanted.

(The Court) He said Mr. Edlin wanted him to negotiate so the savings and loan could buy the note from Ernest. Now, then, if he did it, I do not see there is any—you are the one that asked when the conversation took place. I suppose the Government's next question was, did you do anything?

(Mr. Genn) I think I said who was present. I just wanted to know whether it was a privileged conversation.

(Mr. Marion) He wanted him to negotiate with someone else. I do not see anything secretive.

[845] (The Court) I do not see anything privileged at that point, though what was said in the conversation might easily become privileged. You have not objected up to this time. The only objection at this time is who was present.

Mr. Williams did make a voluntary comment then which I happened to agree with generally. But I think you just have to take it step by step.

(Mr. Tydings) Are you interested in the Government's thoughts on Mr. Williams' and Mr. Doub's comments on Mr. Genn's objections. I think they are entirely improper and I think the Court should instruct them if Mr. Genn wants to object, they should come up and approach the Bench but they should not prejudice Mr. Genn's objection. If they do not agree with Mr. Genn's objection, let them come to the Bench.

(Mr. Williams) Unfortunately, in these multi-defendant trials there frequently arises a conflict between the defendants which can not be avoided.

(The Court) I think there is a difference in saying this.

You can always say that you have no objection and I think Mr. Williams has the right for his own client to show that he is not trying to keep out any evidence and he may, therefore, say he has no objection [846] but I think he should not volunteer a suggestion that Mr. Genn's objection is without merit in front of the jury. I think there is a difference between saying you have no objection and saying you see no grounds for Mr. Genn's objection. They are different points.

(Mr. Williams) It assumes we have a community of interest with Mr. Edlin which I vigorously deny.

(The Court) What I am saying, Mr. Williams, is that you are saying you have no objection.

(Mr. Genn) If the Court please, the jury can hear some of this. I do not appreciate that comment.

Mr. Williams should not make statements like that at this time.

(Mr. Tydings) I agree with Mr. Genn entirely.

(The Court) The point I am making is that Mr. Williams has a right to say that he has no objection but he should not, in the presence of the jury, volunteer his comments on the validity of Mr. Edlin's objections.

* * * * * *

[850] By Mr. Marion:

Q. Mr. Caudle, when you were present in Lykes Boykin's office at which time Congressman Boykin was also present, what, if anything, was discussed? A. There were several conferences over there in Mr. Lykes Boykin's office and Congressman Boykin was there several times, and I do not want to leave the impression here that I positively know that Congressman Boykin was not present when Mr. Desser was there. I simply do not recall that he was. Mr. Edlin and I had gone over and seen this property, not all 8,000 acres. It is a vast area but we saw around the sides of it and that was when he wanted me to try to negotiate to buy the note that Mr. Desser's corporation was in default on.

Q. Now, my question is what, if anything, was discussed at those times when Congressman Boykin was present in Lykes Boykin's office—what was the subject of the discussion? [851] A. The subject was Waldorf. The Waldorf property.

Q. What was discussed with relation to Waldorf? A. The discussion was the possibility of negotiating and buying the note or buying an assignment of a note and there were several discussions about that and the terms of how much money would have to be paid down, and that is the best I can recall.

(The Court) Who buying from whom?

By Mr. Marion:

Q. Who was buying what from whom? A. The First Colony Savings and Loan Association, the First Continental Savings and Loan Association, as I remember.

We were negotiating the possibilities for the Association to buy that note that Mr. Albert Ernest had which was at that time about $5,900,000.

Q. With whom were you negotiating? A. With Mr. Boykin, Congressman Frank W. Boykin, yes, sir.

(The Court) And was he representing himself or someone else? Who held the note? Who was the—

(The Witness) Mr. Albert Ernest who I think was president of St. Regis Paper Company, I am not sure—of some paper company, I thought. Living in Jacksonville, Florida.

* * * * * *

[853] Q. All right. Now, during this same period of time, did a second tract of land enter into the discussions or negotiations? A. Yes, sir.

Q. And where was that tract of land located? A. That tract of land was 5,000 acres located east of Stafford, Virginia. Highway No. 1 goes right through the little town.

And that 5,000 acres was owned by the Tensaw [854] Lumber and Timber—Timber and Lumber Company.

Q. Tensaw Land and Timber Company. A. It was Tensaw. I know it started off with, but the tail end of the title I do not remember. Land and Lumber Company, I thought.

Q. Did you know any of the officers of that particular corporation? A. Well, that corporation was Mr. Boykin's—

Q. Which Mr. Boykin? A. Congressman Frank W. Boykin.

Q. It was his corporation? A. As far as I know. It was a family corporation as far as I know. I did not know very much about it. I knew that Tensaw Land and Lumber Company was a corporation and I knew that Mr. Boykin was identified with it.

* * * * * *

[857] Q. After you went down to Virginia, did you return, the four of you, to the District of Columbia? A. Yes, we came on back to Washington.

Q. Where did you go when you returned to Washington? A. We went back to the House Office Building with Congressman Boykin and Mr. Edlin and Mr. Niles Adams.

Q. And where did you go in the House Office Building? A. To Congressman Boykin's office.

Q. What, if anything occurred when you got to Congressman Boykin's office?

* * * * * *

[858] By Mr. Marion:

Q. Where did Mr. Edlin and Congressman Boykin go? A. In Congressman Boykin's office.

Q. You say they remained there about 45 minutes. A. Yes, sir, they were negotiating on this land.

Q. What, if anything, occurred when they came out at the end of the 45 minutes? A. Well, they came out and Mr. Boykin said that Mr. Edlin had negotiated him down a million dollars off of it and he was kidding him about it, about the purchase price of the land and I do not—maybe I did know the purchase price—how much the agreement was, but I do not remember the amount now.

Q. Now, Mr. Caudle, during the course of the time when you were present and participated in the Desser negotiations and in the negotiations relating to the Waldorf tract and the Brooke, Virginia tract, did you have occasion to go to Congressman Johnson's office? [859] A. Oh, yes, sir. Almost after every conference in the law office in the Solar Building, Mr. Lykes Boykin's office, we would go right straight over to Mr. Johnson's office and report.

Q. Who would go over to Mr. Johnson's office? A. Mr. Edlin and Mr. Robinson and myself would go over there many times to see the Congressman about Waldorf, about

that matter, the land on the Potomac that was owned by Tensaw Land and Lumber Company.

* * * * * *

By Mr. Marion:

Q. For what purpose would you go to Congressman Johnson's office on those occasions with Mr. Edlin and [860] Mr. Robinson? A. We went there for the purpose of Mr. Edlin's explaining to Mr. Johnson what we were doing and what we were trying to do and Mr. Edlin told me that Congressman Johnson's law firm represented the two associations.

* * * * * *

Q. How much time actually did you spend with Congressman Johnson on these occasions after he arrived in his office? A. Well, we would discuss all these things. The particular things over there in Mr. Lykes Boykin's office, with him.

How many times, a good many times. I just do not know how long we would stay sometimes. We would stay, sometime [861] we would wait there an hour or so before he ever came and then when he did come, we would probably take about—spend about an hour with him or maybe less than an hour but it was not very long. It was just waiting to see him until he could get loose to come down.

* * * * * *

Q. All right. Now, up to that time when you left in May of 1961, of you own personal knowledge, Mr. Caudle, what legal work if any was done by Congressman Johnson? A. Of my own knowledge?

Q. Yes. A. I do not know. I do not know. I know that we consulted with him, sought his advice, I know that once when I was there that we had completed the assignment of that note in Mr. Lykes Boykin's office, and I had talked to Albert Ernest at least twice and Congressman Frank Boykin several times and the note was in default and Mr.

Edlin went by one day and authorized the Congressman, Congressman Johnson to foreclose it.

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[866] CROSS EXAMINATION

By Mr. Williams:

* * * * * *

[869] Q. Yes, now, getting to the meetings that you described that took place in Mr. Johnson's office. A. Yes, sir.

Q. During January and February of 1961. [870] A. Yes, sir.

Q. At those meetings there were present yourself, Mr. Robinson, Mr. Edlin and Mr. Johnson? A. Yes.

Q. It was in those meetings as I understood your direct testimony, that you decided to prepare a memorandum covering all phases of the indictment against Mr. Edlin? A. Yes, that is correct, sir. Mr. Edlin and the other three.

Q. Specifically at whose suggestion was it that this memorandum was to be prepared? A. I think I was the one who brought it up, Mr. Williams. I am almost sure I did.

Q. In fact, Mr. Caudle, you knew from your experience at the Department of Justice that it was necessary in order to have a conference on a case for the defendant to state his position in a memorandum or orally, did you not? A. Yes, sir.

Q. And so the preparation of such a factual memorandum was essential? A. Yes, sir, I thought so.

Q. And you so advised Mr. Edlin? A. Yes, sir.

[871] Q. And Mr. Johnson? A. Yes, sir.

Q. And Mr. Robinson? A. Yes, sir.

Q. And it was after such a conference that you and Mr.

Robinson undertook to go to Florida to prepare such a memorandum? A. Yes.

Q. That was because Mr. Robinson's office is in Miami? A. That is correct, his law office and his home, too.

Q. Now, you fixed that in point of time, if I recall your testimony, Mr. Caudle, as on March 18 of 1961.

* * * * * *

[894] Q. Did you see the contract of sale between Tensaw and the purchaser or a deed of trust running back from the purchaser to Tensaw as part of your— A. Mr. Robinson and I went down to the Court House there in Stafford, Virginia to make—in fact, there was another tract of 150 acres which was just west of the 5,000 acre tract that Mr. Edlin was interested in and Mr. Boykin introduced us to the people who owned it. So, after that tract—Mr. Edlin told us it was really a routine thing. To go down to the court house and see if there was [895] any line against it. He knew there was not but check and see.

(Mr. Genn) If the Court please, for the record, I would like to maintain the objection to any conversation between Mr. Caudle and Mr. Edlin out of the hearing of any other individuals.

(The Court) Just tell what you and Mr. Edlin did and not what conversations you may have had about the purchase. You are talking now about the purchase of this 150 acres, is that what you are objecting to? Because that is what he is talking about now.

* * * * * *

[899] By Mr. Williams:

Q. Now, Mr. Caudle, it was only a matter of three weeks after these transactions about which I have been asking you were consummated that you left Mr. Edlin's employ? A. That is about right. I left on or about the 19th of May, 1961 as best I can recall.

(The Court) The answer was not responsive exactly.

You made the statement and he made a counter statement. I want to see if I understand it and whether the witness meant that. You left in May. Had the transactions been consummated before you left?

Is that the understanding of what you said?

(Mr. Tydings) If he knows.

(The Witness) I just do not know, Your Honor. I cannot recall. I just do not. I do not know. It has been almost two years ago.

[900] By Mr. Williams:

Q. But you do know, I take it, Mr. Caudle, that there were negotiations between Mr. Edlin and Mr. Boykin regarding the parcels of land at Waldorf and in Stafford, Virginia? A. Yes, sir.

Q. And in so far as you can observe these were arm's-length negotiations, were they not? A. Yes, sir.

Q. In fact, they haggled about prices and terms constantly, did they not? A. Yes, sir.

Q. There were times? A. There was argument on both sides.

Q. And there were times when the negotiations appeared to break down, did they not, Mr. Caudle? A. I just do not know. You see, I was coming up to the place and going back to my home and the continuity of these things would be broken when I left. And when I come back the continuity would continue from what I could be told by Mr. Robinson or Mr. Edlin took place or by Congressman Boykin.

Q. I am only asking you, Mr. Caudle, about those conferences and those negotiations and those discussions to which you were a party. [901] A. I was in a lot of them.

Q. Yes. A. Yes.

Q. And those were all arm's length negotiations, were they not? A. Oh, yes.

* * * * * *

[904] Q. You were familiar with the fact then that Mr. Edlin was an underwriter for the two savings and loan corporations and not an officer, director or shareholder? A. That is correct. He was underwriter. He was not an officer.

(Mr. Genn) No further questions.

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(Vol. 12 [906]) By Mr. Doub:

Q. Mr. Caudle, I just have a few questions to ask you. A. Yes.

Q. You testified that you prepared or helped Mr. Robinson prepare this memorandum which was submitted to Mr. Johnson? A. Yes.

Q. Did you and Mr. Robinson attempt to make that memorandum as accurate as possible? A. Yes, we tried our best. As accurate as possible. Factually accurate as possible.

Q. Yes.

[907] Now, did you hear Mr. Edlin say repeatedly that he was innocent of that mail fraud charge?

(Mr. Marion) If Your Honor please, if we are going to go into conferences which related to the merits of a matter in discussions where Mr. Edlin and Mr. Caudle were alone which the government could not bring out on direct, I wish to object to Mr. Doub's bringing it out on cross examination.

(Mr. Doub) I will modify the question, Your Honor.

(The Court) I think, if Mr. Edlin asked that question, he waived his privilege about those conferences and conversations and I do not see that it is particularly relevant to your case and I do not think you ought to waive it for him.

(Mr. Doub) I have withdrawn the question, Your Honor.

By Mr. Doub:

Q. You testified as to meetings with Mr. Johnson. A. Yes.

Q. In, I believe, February or March, 1961. A. Yes.

Q. Where Mr. Edlin was present and there was a discussion of the merits of the mail fraud case, right? A. Yes.

[908-909] Q. Now, in the course of those talks and in the presence of Mr. Johnson, didn't Mr. Edlin repeatedly state that he was innocent of this charge? A. Mr. Edlin always proclaimed his innocence.

Q. Yes, and as a matter of fact, didn't he tell Mr. Johnson that in your presence? A. Yes, sir. He said that in my presence and he said it many times.

Q. But before Mr. Johnson, too. A. Yes.

Q. Didn't he also tell Mr. Johnson that these charges had been inspired by a competitive federal savings and loan association? A. Yes.

Q. Now, in the course of that—in the course of those talks with Mr. Johnson were not you and Mr. Johnson in complete accord, Mr. Caudle, that the Justice officials would act on a request for a review of that case only upon the basis of the merits of the case? A. That is true. That was my opinion.

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[913] By Mr. Doub:

Q. Didn't you have some meetings with Mr. Johnson and Mr. Edlin and Mr. Robinson in Mr. Johnson's office with respect to various aspects of these complex negotiations? A. We certainly did. There were a lot of meetings in his office about them. Every time we would go by for instance, to see Mr. Lykes Boykin, we would leave and Mr. Edlin would go back and see Congressman Johnson if

he were in or go later and report to him what took place in Mr. Lykes Boykin's office, the attorney's office.

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[916] By Mr. Doub:

Q. Mr. Caudle, Mr. Edlin never told you at any time that he had paid Mr. Johnson money for talking to Justice officials, did he?

(Mr. Tydings) Now, again I am going to object.

[917] (The Court) Again you are opening up the entire, every conversation between Mr. Edlin and Mr. Johnson.

(Mr. Doub) Your Honor, I except to Your Honor's statement. I think that I have a right to ask that question. That is the charge. Here is a witness who knew Mr. Edlin well. And the idea that he cannot be interrogated upon such a matter of vital importance to Mr. Johnson I just cannot see.

(Mr. Tydings) If Your Honor please, he will have ample opportunity to make the witness his own witness and put him on in his direct case but we were restricted in our examination by the rules of court and the same rules should apply to you that apply to us. You can bring him back and call him and ask him all the questions you want.

(The Court) Since those questions were objected to by one of the defendants—

(Mr. Doub) Not by me.

(The Court) That is all right. It is not proper cross examination because there was no such testimony permitted as to any such conversations between Mr. Edlin and Mr. Caudle. If you wish to make Mr. Caudle your witness, you may ask him and then the Government may cross examine on that point.

[918] (Mr. Doub) I except to Your Honor's ruling.

(The Court) You say you except to the ruling?

(Mr. Doub) Yes, Your Honor.

(The Court) If you will point out to me any direct evidence on which this would be proper cross examination, I will be glad to reconsider my ruling.

You have him on cross examination. Now, if you can point out any evidence which would make this proper cross, I will reconsider my ruling. Otherwise, I think you must make him your witness.

By Mr. Doub:

Q. Did you ever hear Mr. Robinson—did Mr. Robinson ever say in your presence that he or Mr. Edlin had ever paid Mr. Robinson anything for his visits to the Department of Justice?

(Mr. Marion) Your Honor, I will object to this on the same premise.

(The Court) Are you making him your witness, Mr. Doub?

(Mr. Doub) This is another question. This does not relate to Mr. Edlin. As I understand your ruling as to Mr. Edlin, it was because Mr. Edlin's counsel objected to statements—

(The Court) If you will point out to me any evidence on direct examination of which this is proper [919] cross examination, you may certainly ask it in the form you have asked it.

If you can not point out anything on direct examination for which this is proper cross examination, I will still say that you have the right to ask the question but in asking it, you will be making him your witness.

(Mr. Doub) May I make a proffer at the Bench, Your Honor?

(The Court) Yes, sir.

(Bench Conference.)

[922] (The Court) The point is if he asks the question, then he opens up the conversations completely.

Now, that is a different point which is not presently being made. I do not know if Mr. Genn or Mr. Robinson are going to make the point.

[923] (Mr. Genn) I have already indicated this objection continues throughout.

(The Court) Are you objecting to this question?

(Mr. Genn) Yes, of course.

(The Court) Are you objecting to this question, Mr. Robinson?

(Mr. Robinson) No, sir.

(The Court) Mr. Robinson is not objecting to the question.

(Mr. Genn) I am objecting because Mr. Robinson was our attorney and agent and I think that includes him as well. That was the McCormick Rule.

(The Court) All right, if Mr. Edlin objects to this question being asked as being a communication from one of his attorneys to another attorney about a particular matter in which they were both engaged, I think you will have to sustain Mr. Edlin's objection.

(Mr. Williams) But, Your Honor, we have a situation—

(The Court) I think you have got to make it on the record.

(Mr. Genn) I have stated it to Your Honor.

(Mr. Williams) We have a situation here where [924] Mr. Robinson and Mr. Edlin are charged with being conspirators and charged in a criminal case. Is it reasonable that Mr. Edlin can seal Mr. Robinson's lips now with a claim of privilege when they are charged with breaking a criminal law in conspiring together and asserting his own defense.

(The Court) I will rule on this if you offer it as part of your case, but I still do not see that this is proper cross examination on anything that was said on direct. And since Mr. Genn is objecting to it, as well as the Government, I think that I must—I have to balance the equities in the thing and it seems to me that I should rule as I felt all along, that this is not proper cross examination but if it comes—if Mr. Robinson opens it up, that is a different matter.

(Mr. Williams) Judge, May I say one last thing, and then I will be quiet because I have not as much at stake in this as Mr. Doub has, but it seems to me, Your Honor, the thrust of Mr. Marion's direct examination of Mr. Caudle was to show viz-a-viz Johnson, that Johnson was very active for Mr. Edlin in relation to the indictment question and that he did a minuscule amount of legal work other than that which could be attributed to work on the indictment.

* * * * * *

[927] (Mr. Doub) I concur, of course, in the statement that Mr. Williams made on the record.

I would also like to point out that not only was Mr. Caudle interrogated about what was said at these meetings with Mr. Johnson, but he was also asked to testify that he knew of some meetings with the Justice Officials and I think, under those conditions, it is appropriate for me to follow that up and ask him the questions that have been asked.

(The Court) You ask him, Did Mr. Edlin ever admit paying Mr. Johnson that money?

(Mr. Doub) I did not say "admit."

(The Court) Well, that is the effect of it.

(Mr. Doub) No, because this is long before there was ever any charge.

(The Court) All right, did he say that, and if you ask him that, do you see any possible objection to Mr. Tydings'

asking him whether he also said anything to him about the checks and what the checks were for?

(Mr. Tydings) Did he know anything about the way Robinson was paying him, or know anything about those checks that went to him?

[928] (The Court) Did Mr. Robinson ever tell him what they were for? If you ask him whether or not he had been paid, doesn't that open up what he did say about that? If it opens it up, it opens it up only so far. I am trying to protect Mr. Genn and say there is not any waiver but that it would be limited only to the questions dealing with the specific points.

(Mr. Doub) Your Honor, you have persuaded me.

(Mr. Genn) Your Honor, there is just one thing further on this particular point.

I am put in this position. When an objection like this is made, I think it is unduly underscored by comments of the Attorneys and it makes it more prejudicial to this particular defendant. When they say I am entitled to ask that question or something of that nature.

(The Court) Mr. Doub is going to withdraw the objection. You will not have to make your objection in front of the jury.

(Mr. Genn) This is very difficult for me.

(The Court) I know it is.

(In open court.)

(The Court) You are withdrawing the question, Mr. Doub?

(Mr. Doub) Yes, sir.

[930] CROSS EXAMINATION

By Mr. Robinson:

Q. Just one or two, Mr. Caudle. As a matter of fact, in

Mr. Johnson's office at one of these two or three meetings that you have mentioned, did you not particularly advise Mr. Edlin in Mr. Johnson's presence that the seeking of a review was about as dangerous a move as he could make since, if his efforts were unsuccessful, he would have had to have given the government every possible defense that he had and that all that information would then be made available for the prosecution? A. Oh, yes, I am sure of that. I sure did.

Q. And is it a fact, sir, that your instructions in regard to the negotiations having to do with the purchase of the land and acquiring of mortgages having to do with Waldorf and of Virginia were no documents should have final approval and no negotiations should be completed without first consulting and getting the absolute approval of Mr. Johnson as chief counsel in all of those matters? A. I think that is correct, Mr. Robinson.

Q. You think it is correct, sir, or it is correct, sir? A. I am just sure it is correct. At least when I was here.

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[Tr. 953-958]:

RUSSELL O. HICKMAN

was called as a witness by and on behalf of the Government being first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record?

(The Witness) Russell O. Hickman, Whaleysville, Maryland.

(The Clerk) Russell O. Hickman.

DIRECT EXAMINATION

By Mr. Tydings:

Q. Mr. Hickman, where do you reside, sir? A. Whaleysville, Maryland.

Q. Which county is that? A. Worcester County.

Q. By whom are you employed? A. U. S. Finance Company, of Berlin.

Q. Who owns the U. S. Finance Company? A. Congressman Thomas F. Johnson.

Q. Are you a member of the Maryland Legislature? A. That is right.

Q. And you are serving in your third term as a delegate from Worcester County? A. That is right.

Q. And would it be a fair characterization to say that you were one of Congressman Johnson's political lieutenants on the Eastern Shore of Maryland? A. I have been very close to the Congressman for twenty-three years.

Q. All right. Now, directing your attention to the year 1960, Mr. Hickman, did you have occasion to act in any capacity for Congressman Johnson in his re-election campaign for the Congress of the United States? A. Yes, I did.

Q. And in what capacity was that? A. I was Treasurer of two testimonials, a testimonial luncheon held in Baltimore on July 19, 1960, and a testimonial dinner held at Ocean City, Maryland, on August 29, 1960.

Q. All right. Now, what did you do with the receipts which you received for the luncheon account; that is, the luncheon given for Congressman Johnson? A. Those receipts were deposited in my name as Russell O. Hickman, Dinner Treasurer, in the Calvin B. Taylor Banking Company, of Berlin, Maryland.

Q. What sort of records, if any, did you keep of your tour of duty as treasurer? A. Not too complete records. It was more or less an honorary position. I was on my honor, without bond. I had a duplicate of the deposit slips and the cancelled checks, of course, for each disbursement.

(Mr. Tydings) Mrs. Zielinsky, I will ask that these be marked.

(The Clerk) Government's Exhibit 88, marked for identification.

(Government's Exhibit No. 88 was marked for identification.)

(Mr. Tydings) I show them to the defendants as a photostatic copy.

By Mr. Tydings:

Q. Now, Mr. Hickman, I show you Government's Exhibit No. 88 for identification and ask you whether or not that is a duplicate deposit slip which you made in the course of your duties as treasurer for the Luncheon Committee for Congressman Johnson? A. That is right. It was deposited. Two checks were deposited, one for $50 and one for $500 on July 5, 1960.

Q. And is there any record on the deposit slip as to whether or not one of those checks was a check of W. L. Robinson? A. Yes.

Q. And how much was that check? A. That was $500.

Q. And do you recall how you received that check, Mr. Hickman, to the best of your recollection? A. Really, I couldn't tell you definitely. I have no record on that. Some of the checks were payable to me as treasurer, and some of them were payable directly to the Congressman, and he would endorse them over to me, "pay to the order of Russell O. Hickman, Treasurer." If they were payable to the Congressman, he would endorse them on the back, payable to me for deposit to my treasurer account.

(Mr. Tyding) I offer the next Government's Exhibit for identification.

(The Clerk) Government's Exhibit No. 89 marked for identification.

Government's Exhibit No. 89 was marked for identification.)

(Mr. Tydings) Your Honor, I ask that Government's Exhibit No. 88 be marked in evidence.

(The Clerk) Government's Exhibit No. 88 marked in evidence.

(Government's Exhibit No. 88 was received in evidence.)

(Mr. Tydings) Do you wish to see it now.

By Mr. Tydings:

Q. Mr. Hickman, I show you Government's Exhibit 89 for identification and ask you whether or not that is a record kept by you in the course of your duty as treasurer for Congressman Johnson's August 29th Dinner Committee? A. That is right. That was one deposit made from receipt from the August 29th dinner at Ocean City.

Q. That is a deposit slip for what bank? A. Calvin B. Taylor Banking Company, Berlin, Maryland.

Q. Can you tell from Government's Exhibit 89 whether or not there was a check deposited on that date from W. L. Robinson? A. There were a group of checks, a number of checks, and one check is identified W. L. Robinson in the amount of $300.

Q. What is the date of the deposit? A. November 7, 1960.

(The Court) When?

(The Witness) November 7, 1960.

I don't know whether the check was mailed to me directly. I have no knowledge whether it was mailed to me or whether it came in directly.

(Mr. Tydings) Thank you.

The Government will offer Government's Exhibit 89 for identification into evidence at this time.

(The Clerk) Government's Exhibit 89, marked in evidence.

(Government's Exhibit 89 was received.)

* * * * * *

[Tr. 962-966]:

CROSS EXAMINATION

By Mr. Doub:

Q. Now, I show you Government's Exhibit 88, being the deposit slip showing the deposit of the $500 check from Mr. Robinson payable to Mr. Johnson and endorsed by Mr. Johnson over to you. A. It could have been that way, or it could have been payable direct to me.

Q. As a matter of fact, Mr. Hickman, the check shows on its face that it was endorsed over to you, and then you endorsed it for deposit. A. There is a $50 check on there. It would have been likewise.

Q. Let me ask you this: The deposit slip dated July 5, 1960, shows that you deposited two checks on that day, one of C. P. McCormick, Sr., and one from W. L. Robinson, in your political account. A. That is right.

Q. Now, I want to ask you whether you handled the contribution for Mr. Robinson in the same way that you handled the McCormick check and all the other checks which you received.

(Mr. Tydings) Your Honor, I don't see how this is relevant or proper cross.

(The Court) The offer had already been in. I think the check was already in with the endorsement. Here the two checks are. I don't think it helps or hurts. It is immaterial. He simply deposited it, didn't he?

(The Witness) That is right. The McCormick check was handled the same way.

By Mr. Doub:

Q. That all went into the same bank account of yours, the political account? A. Yes.

Q. Tell us what you used the proceeds of these checks and all other checks that went into the political account for—what did you spend that money for? A. A number of things. The First Congressional District is the largest District in the area in the State of Maryland. While it is the smallest in population. The traveling expenses are terrific from district to district, county to county. It was spent, a lot of it, I think with about 23 or 24 weekly newspapers in the District and three or four dailies. Maybe it is 8 or 10 radio stations and one television station. Workers on the road distributing campaign materials, putting up posters and so on. Outdoor advertising. Billboards and the like.

Q. When you referred to television, you mean speeches made on TV? A. Yes.

Q. The cost of buying time on the station? A. Yes.

Q. And radio, you were referring to speeches over the radio and cost of time on that station? A. Speeches made over the radio and recorded spots. They were spotted several times daily.

Q. Now, Mr. Hickman, did not you also make contributions from that account to Democratic campaign committees in the various counties on the Eastern Shore?

By Mr. Doub:

Q. Mr. Hickman, who organized that campaign luncheon here in Baltimore City? A. That I could not answer directly, sir. My experience, I had nothing to do with ticket sales or distribution.

Q. Wasn't the promoter Mr. Guy Campbell? A. He and his son James. It is my recollection because there were a number of receipts turned over to me by Mr. James Campbell.

Q. You mentioned newspaper advertising. Strike that.

There were a number of—was all the money in the political accounts of yours spent solely for the candidacy of Mr. Johnson as a Democratic nominee for the Congress.

(Mr. Tydings) There are two of them. So I think we ought to know what we are talking about. One was for a luncheon before the Primary and another was for a dinner late in the summer.

By Mr. Doub:

Q. Either one. A. The only way I could answer it is combining the two because the money was spent for the same purposes. Not only for the campaign expenditures and promoting the campaign of Thomas F. Johnson for Congress but for Senator John F. Kennedy and Senator Johnson, Senator Lyndon B. Johnson for President and Vice President of United States, respectively.

* * * * * *

[Tr. 968-969]:

By Mr. Doub:

Q. Your deposit slip, Mr. Hickman, dated November 7, 1960, shows that you deposited on that day a number of checks including a $300 check of Mr. Robinson? A. Yes.

Q. And the proceedings of that check were treated in the same way for deposit purposes as all the others? A. The same manner.

Q. Now you had no understanding with Mr. Johnson that this $300 check or the June $500 check should be treated in any different way than any other campaign contributions, did you? A. Definitely not. No other understanding. It was to be treated the same way.

Q. Now, you talked with the FBI and later Mr. Tydings about Congressman Johnson, did you not? A. Right.

Q. Now, what was said at your first meeting with Mr. Tydings? A. I recall Mr. Tydings' resenting Congressman

Johnson's opposing him, his appointment for U. S. District Attorney and he said he remembered—

(Mr. Tydings) Your Honor, that is not proper. * * *

* * * * * *

[Tr. 1044-1046]:

FRANCES BROWN KIERNAN

a witness, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Burnett:

Q. Where do you reside? A. 531 Pard Road, Washington 27, D. C.

Q. Do you know Congressman Thomas F. Johnson? A. Yes.

Q. Have you ever been employed by him? A. Yes.

Q. When were you employed by him? A. 1959, 1960, 1961 and 1962.

Q. Will you describe your duties while employed by Congressman Johnson? A. When I first went to work for Congressman Johnson I took his personal dictation and did some departmental work.

After a year and a half upon the resignation of Mrs. Myrtle Harris, I was more or less confined to departmental work solely.

Q. Do you know the defendants William L. Robinson and J. Kenneth Edlin? A. Yes.

Q. When did they first visit Congressman Johnson's office to the best of your recollection? A. 1960.

Q. What part of 1960 did they first enter Congressman Johnson's office? A. I am not aware of the exact date.

Q. Approximately, was it the first half or last half? A. Early spring.

Q. Early spring of 1960. A. Yes.

Q. How frequently did they visit the office in the early spring of 1960? A. Rather infrequently that spring.

Q. Now, did they visit the office of Congressman Johnson in the last half of 1960? A. Yes.

Q. How frequently did they visit the office during this period of time? A. Well, it was four years and I have to think back over the four years. As nearly as I can remember, as time went on, it was more frequent.

• • • • • •

[TR 1050-1051]

Q. Did you ever order any reprints of a June 30, 1960 speech? A. Yes.

Q. At whose directions did you order these? A. Mr. Buarque, the Congressman's assistant.

Q. These speeches? A. Yes.

Q. Do you recall when it was that you placed this order? A. No.

Q. Approximately? A. The speech was dated June 30, 1960. Is not that correct, sometime after that I do not know the date.

Q. Was it one order or two orders that you placed for reprints? A. Two orders.

Q. Do you know of any other orders for reprints of this speech? A. No.

(Mr. Burnett) The Government has no further questions at this time. You may cross examine.

CROSS EXAMINATION

By Mr. Doub:

Q. You have testified, Mrs. Kiernan, that you ordered the reprints of the speech from the Government Printing Office? A. Through the Congressional Record Clerk in the Capitol, yes.

Q. And you did that at the direction of Mr. Buarque? A. Yes.

Q. Now, is it not true that you did not discuss with Mr. Johnson the orders for those reprints before you put in those orders? A. No, I did not discuss it with Mr. Johnson, no, sir.

Q. And, as a matter of fact, is it not true that the first time you mentioned it to him was when you delivered to him a check of First Continental in payment of the reprints for endorsement over to the Government Printing Office? A. Yes.

Q. Is it not a fact that Mr. Buarque wrote the speech for Mr. Johnson or do you know? A. It is my understanding that Mr. Heflin and Mr. Buarque wrote the speech.

• • • • • •

[TR 1058-1060]

EARL KUNKEL

a witness having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. Tydings:

Q. Mr. Kunkel, you reside in Silver Spring, Maryland? A. Correct.

Q. You are married and have six children? A. Yes, sir.

Q. You are now employed at the Housing and Home Finance Agency, is that correct? A. Yes.

Q. Directing your attention to the period of July, 1961 through November, 1961, where were you employed? A. I

was employed by the First Continental Savings and Loan Association.

Q. Whereabouts, Mr. Kunkel? A. 514 Wisconsin Avenue.

Q. And that is in Chevy Chase, Maryland? A. Correct.

Q. And in what capacity were you employed? A. Executive Vice President.

Q. Would you just describe to the ladies and gentlemen of the jury generally your responsibilities as executive vice president of the First Continental Savings and Loan Association? A. I think the best way to described it was the day-to-day operations and basically as office manager.

Q. You were in charge of the day-to-day operations of the Association? A. Yes.

Q. By whom were you employed or hired? A. W. L. Robinson.

Q. Was it necessary for anyone to approve your employment? A. I believe so.

Q. Who was that individual? A. J. Kenneth Edlin.

Q. And officially what relationship did Mr. Robinson have with the First Continental Savings and Loan Association? A. Officially he was the underwriter and consultant.

Q. Mr. Robinson now? A. I am sorry. Mr. Robinson at that time, I believe, was vice president and counsel.

Q. And what relationship if any did Mr. Edlin have with the First Continental Savings and Loan Association? A. He was the underwriter or consultant to the Association.

Q. What was the relationship between Mr. Robinson and Mr. Edlin at that time in so far as their activities with the Association were concerned and in so far as you know? A. Mr. Robinson was Mr. Edlin's attorney and was with him constantly.

Q. Now, at the time you came to work for the First Continental Savings and Loan Association in July, 1960, do you recall who the president of the Association was? A. Louis D. Goldman.

• • • • • •

[TR 1065-1068]

By Mr. Tydings:

Q. Now, Mr. Kunkel, directing your attention to the period July and August of 1960 when you first were employed at the First Continental, did you have occasion to become aware of the delivery of any speeches to the Association which had been made by Congressman Johnson? A. Yes.

Q. And what were those circumstances? A. The delivery entrance to the Association was at the lower level in the rear. I had to go downstairs for some reason or other, I do not know, and I happened to see a mail truck backed up to the back. Asked some one what the heck was going on, what were they bringing.

Q. Did you observe yourself what they were bringing? A. Yes. There were a number of cartons of speeches of Congressman Johnson's.

Q. And was this the speech of June 30, 1960 which dealt with the savings and loan commercial insurance? A. Yes, sir.

Q. Now, during the course of your duties as executive vice president, do you know whether or not any copies of these speeches were used in solicitation efforts to—

(The Court) You say speeches. Copies of these speeches.

(Mr. Tydings) Copies of the daily record recording of Congressman Johnson's speech. The daily record reprints.

(The Witness) Reprints.

By Mr. Tydings:

Q. Do you know whether or not any of these reprints were used in solicitation of deposits? A. The Congressman's speech was used normally in answer to particular inquiries when people were asking whether or not we had FSLIC Insurance and in this instance, we would have a particular letter that we would use which enclosed with it a copy of the Congressman's speech.

Q. Also, did you have occasion during your duties as executive vice president to observe whether or not any of these reprints were underlined or had sections of the speech underlined or underscored in red? A. Yes, they were.

Q. And what were those circumstances, and why? A. The purpose was to call attention to what we consider the pertinent and more meaty part of the speech.

Q. Pertinent in regard to what? A. To our point of view.

Q. To your point of view? A. Point of view, the fact of an independent association as against the Associations having FSLIC insurance.

(Mr. Tydings) I mark this for identification, please.

(The Clerk) Government exhibit 91 marked for identification.

(Mr. Doub) Your Honor, I would like to point out—

(The Court) It has just been shown to you at the moment.

Mr. Tydings has not done anything except mark it for identification. It has not been offered yet.

He is just showing you something in advance.

(Government exhibit 91 marked for identification.)

(Mr. Tydings) I intend to show it to the witness now, Your Honor.

(The Court) All right.

By Mr. Tydings:

Q. Mr. Kunkel, I show you Government exhibit 91 for identification which has an additional marking in the upper right hand corner. Is it all right to read that? It is an additional means of identification for the record.

(The Court) Is there any objection?

(Mr. Doub) There is no objection provided Your Honor will permit me to say that this is an ordered reprint of the speech and it is an accurate reproduction of the content of Mr. Johnson's speech except that it has a heading at the top which is not in the Congressional Record, itself, where the speech was reproduced.

(The Court) You mean what would be the headline here was not?

(Mr. Doub) Yes, Your Honor.

(The Court) The rest of it is a correct copy from the Congressional record except these two lines beginning "Federal Savings and Loan League".

(Mr. Doub) That is right.

* * * * * *

[TR 1069-1072]

By Mr. Tydings:

Q. Now, Mr. Kunkel, there are certain areas which are outlined in red. Why were these areas outlined in red? A. Because, in our opinion these were the points most pertinent to what we were trying to put across and for ease in the person's reading it.

In other words, this is very small print and for ease in calling attention to the more important, what we considered more important points in the speech.

(The Court) I think it would be helpful also to let the jury see the headline to which Mr. Doub referred.

(Mr. Tydings) The headline to which Mr. Doub referred which was not a part of the official Congressional record is "Federal Savings and Loan League Seek Destruction of Competitive Independents and Commercial Mortgage Insurance." And the areas are outlined in red as described by Mr. Kunkel.

If Your Honor please, I will give this to the jury at this time.

(The Court) Is there objection? It is now being offered, you say?

(The Clerk) It is marked in evidence.

By Mr. Tydings:

Q. Now, Mr. Kunkel, you described a type of letter which was used to answer inquiries about Federal Insurance, and a type of letter to which a copy of the Congressional Record Reprint of Congressman Johnson's speech was attached. I show you Government exhibit 49 for identification and ask you whether or not that is the type of form letter and the copy of the speech to which you refered in your testimony? A. Yes, sir, this is what we referred to as the Johnson letter.

Q. And if you turn to the second page, I note that the place for the signature has Earl Kunkel, is that yours? A. Yes, sir.

(Mr. Tydings) We will now offer Government exhibit 49 as evidence in this case, Your Honor.

(Mr. Williams) Your Honor, I wonder if you would ask Mr. Tydings if he would fix in point of time the preparation of this letter if this witness knows.

By Mr. Tydings:

Q. Mr. Kunkel, if you know, during what period of time was this form letter and the attached speech used by the First Continental Savings and Loan Association?

(Mr. Williams) I was concerned about the date of preparation, Mr. Tydings.

By Mr. Tydings:

Q. To the best of your knowledge the date of the preparation? A. It would have been in the latter part of July of 1960.

Q. And one other question in that connection, Mr. Kunkel. Who would have to give final approval to the form of any such letter such as that? A. That is a requirement of the Association that all letters going to, any information going to the general public would have to be initialed by the Attorney, W. L. Robinson.

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[TR 1073-1078]

By Mr. Tydings:

Q. Was this the actual form of letter used? A. Yes, sir, it was.

Q. And to whom was it sent, this form? A. This letter was sent in answer to people that were asking why we did not have, or rather, why our accounts were not insured by the Federal Savings and Loan Insurance Corporation.

Q. And again, Mr. Kunkel, during this period generally, to the best of your knowledge, was this letter or this form of letter used? A. That particular letter to the best of my recollection was used in the latter part of July and possibly August.

Q. Of 1960? A. Yes.

(The Clerk) I would like to mark that in evidence.

(The Court) I did not quite get that. How long was it?

(The Witness) July to August.

(The Court) Two months?

(The Clerk) Government exhibit 49 marked in evidence.

(Government exhibit 49 marked in evidence.)

(The Court) You say this particular letter was used for two months?

(The Witness) Yes, sir.

(Mr. Genn) The difficulty I am at, Your Honor, I do not want to clutter up the record. This seems to be a rough draft. If the Court will examine it, you can see that it was not this particular letter that was sent out.

(The Court) That is why I asked the witness. He said it was.

By Mr. Tydings:

Q. Mr. Kunkel, let me show you government exhibit 49. That is a draft of a form of letter to be used. Is that correct, in response to these inquiries? A. Yes, sir. This letter by looking at it, I think it is obvious to me that this was prepared by the girls to be used as a master copy in answering the particular letters which they received.

Q. How can you tell that, Mr. Kunkel? A. Looking here at the "E. K." which were my initials, "colon," and then your initials. Naturally this would mean to the girls, they would put their initials. These were instructions to the girls.

Q. All right, now on the first page of the exhibit 49 there appears to be a red crayon or red marking on some of the lettering. Do you know who made that, Mr. Kunkel? A. I do not.

(Mr. Tydings) I will read the entire contents of the exhibit except the attached speech.

Ladies and gentlemen of the jury, Government Exhibit 49 reads as follows:

(The Court) Has it been offered in evidence?

(Mr. Tydings) Yes, it has been offered and marked in evidence.

(The Clerk) Yes.

Mr. Tydings: (Reading)

"Example of letter to be sent on information on St. Lawrence Insurance Company: Not to be typed in all capitals but I have it for ease in typing from this example:

"EXAMPLE

"Thank you for your —(fill in appropriately)——, and it is a pleasure to advise you that to provide protection for the funds of its savers, First Continental has insured its mortgages with St. Lawrence Insurance Company, 4849 North Western Avenue, Chicago 25, Illinois. This company is under the supervision of the Insurance Commissioner of the State of Illinois. The assets of a savings and loan association are chiefly mortgages, cash and Government bonds, with mortgages comprising the major share. The only possible loss of these assets would be by reason of default of one or more of the mortgages. By insuring our mortgages as to principal, interest and foreclosure costs, if any, we have eliminated this possibility of loss and protected the funds of our savers which are invested in these insured mortgages.

"End of first paragraph

"The type of advertising used by so-called 'Federally insured' associations has apparently misled you, like millions of others, into believing that their accounts are insured or guaranteed up to $10,000 by the United States Government itself. This is completely incorrect. The Federal Savings and Loan Insurance Corporation is not empowered to obligate the Federal Government. Although that corporation allegedly insures the accounts of many associations, its total assets are less than 1% of the accounts claimed to be 'insured to $10,000.'

"End of Second Paragraph.

"As verification, we enclose a copy of a speech by The Honorable Thomas F. Johnson, one of Maryland's Con-

gressmen, made from the floor of the House of Representatives on June 30, 1960. He quotes from a speech made on May 19, 1960, by The Honorable Cecil B. King, one of California's Representatives, in which Congressman King declared that the Federal Savings and Loan Insurance Corporation is riding on the coattail of Government to give the public confidence, a false confidence, under its present management.

"End of Third Paragraph

"If you have any further questions, please do not hesitate to call on us.

"End of fourth paragraph

"Sincerely,

"Earl Kunkel

Executive Vice President

"EK: your initials

"Enc. do not forget to enclose a copy of Congressman Johnson's speech!"

Then attached thereto is a Congressional Record copy of Congressman Johnson's speech.

• • • • • •

(Vol. 13 [1084]) Q. And do you recall Mr. Robinson's comments to you about the status or what was happening about the indictment—the substance of what Mr. Robinson told you, what Mr. Robinson advised you? A. The substance of what Mr. Robinson advised me was that he doubted that the case would ever come to trial. He also advised me that they were in a position to bring their story to the attention of the top echelon of the Department of Justice.

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[1120] (Mr. Doub) Q. Now, the general counsel of First Continental was Mr. William Robinson, was he not? A. Yes.

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[1121] Q. Now, who would be most familiar with the legal services rendered by any lawyer for First Continental? Would it be you or would it be Mr. Robinson as general counsel? A. Mr. Robinson.

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(Vol. 14 [1190]) Thereupon—

WILFRED W. BUTSCHKY

a witness, having been first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Wilfred W. Butschky.

(The Clerk) Spell your last name.

(The Witness) B-u-t-s-c-h-k-y.

DIRECT EXAMINATION

By Mr. Burnett:

Q. What is your occupation? A. I am the Clerk of the United States District Court for the District of Maryland.

Q. Do you have custody and responsibility for the official records of this Court? A. I do.

Q. Did you bring with you any records of this Court? A. Yes, I did.

Q. Do you have File 25038?

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[1196] By Mr. Burnett:

Q. Who were the parties to that indictment? A. The case is entitled "U.S. of America vs. J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland Corporation, [1197] Rosabelle Edlin and Jackson D. Rains.

Q. When was that indictment returned? A. November 17, 1959.

Q. From what date to what date was that indictment pending before this Court? A. From the date it was filed on November 17, 1959 until—

(The Court) Just give us the date.

(The Witness) Yes, sir.
—June 5, 1962.

By Mr. Burnett:

Q. And who was the attorney of record for J. Kenneth Edlin? A. The appearance of G. C. A. Anderson, Esquire, was entered on behalf of the defendant J. Kenneth Edlin on December 4, 1959.

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(At the Bench)

[1198-A] (The Court) What is the purpose of offering the disposition?

(Mr. Tydings) The relevancy of the disposition sheet, if Your Honor please, is that it occurs within the indictment period. It shows what happened to the indictment and it shows and it goes to show also the bad faith of the defendants in this case.

(Mr. Williams) December 31, 1961.

(Mr. Genn) It is beyond the period.

(Mr. Tydings) But the nolo contendere period [1199] was in December.

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[1200] (In open court.)

(The Court) Mr. Butschky, did Thomas F. Johnson enter his appearance on behalf of any defendant in case No. 25038?

(The Witness) From an examination of the records [1201] in the case, it does not appear that such an appearance entry was made.

(The Court) The answer is no?

(The Witness) No.

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[1202] (At the bench.)

(The Court) If the defendants prove the disposition in this case, they will be entitled to bring in the disposition of the other.

(Mr. Doub) Certainly.

(Mr. Genn) I have objected to this and if [1203] the defendants bring it out, the difficulty is that if I have to object in public constantly about this before the jury, that is almost as prejudicial as the evidence being in.

(The Court) I cannot help it, Mr. Genn. How can I sustain your objection, if the other defendants want to show, they will have to show what they want. The purpose they want it. I do not see any unreasonable prejudice.

I will have to rule on the questions as they come out. I am not going to let the government prove anything more at this time.

(Mr. Tydings) What about the technical superseding indictment, Your Honor? Certainly—so the jury will have it even if you explain it to them without the disposition, just the technical aspects.

(Mr. Williams) No, I do not want the Court to explain.

(Mr. Tydings) Let us put it in then.

(The Court) You want to put in the superseding indictment?

(Mr. Genn) I will object to that, Your Honor.

(The Court) You can object to it.

(In open court.)

[1204] By Mr. Burnett:

Q. Do you have with you a second file? A. Yes.

Q. Does that file contain an indictment? A. Yes.

Q. What is the pleading on that indictment? A. The pleading is No. 1.

Q. And in what case?

(The Court) Give the case number.

By Mr. Burnett:

Q. What is the case number? A. No. 25759, Criminal.

(Mr. Doub) What was that number?

(The Witness) 25759, Criminal.

By Mr. Burnett:

Q. And what is the date of the indictment? A. The indictment was returned on November 7, 1961.

(Mr. Williams) November 7, was that, Mr. Butschky?

(The Witness) Yes.

By Mr. Burnett:

Q. What was the date of arraignment on that indictment?

(Mr. Genn) If the Court please, I made an objection to this entire—

(The Court) Then I said I would rule on the [1205] questions as they came up. Do you object?

(Mr. Genn) Yes.

(The Court) I sustain your objection at this time.

(Mr. Tydings) Will you allow us to tie it in later on why it is material and relevant?

(The Court) I will rule on questions as they come up.

(Mr. Burnett) Who are the parties in the second indictment?

(The Court) Objection sustained. I instruct you not to ask any more questions along that line at this time.

By Mr. Burnett:

Q. What is the difference between the indictment in 25759—

(Mr. Genn) Objection.

(The Court) Sustained. I instructed you not to ask any more questions along that line. If you ask it again, I will deny your privilege of practicing before this Court and leave the case to some attorneys who will follow my instructions.

(Mr. Tydings) It was my error, not Mr. Burnett's.

(The Court) All I made clear was that the defendants proposed to ask certain questions and I ruled [1206] on them as they came up and I was going to limit the government to the proof of its indictment.

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[1207] By Mr. Doub:

Q. Referring to this indictment which Mr. Butschky testified was returned November 17, 1959, you said that it was pending until June 5, 1962.

Now, what was the disposition of that case?

(Mr. Genn) I am going to object, if the Court please, for the reasons I have stated already on the record.

(The Court) Overruled.

(The Witness) The docket entry shows that on June 5, 1962, the petition of the United States of America to dismiss the indictment herein pursuant to Rule 48 (a) of the Federal Rules of criminal procedure order of Judge Watkins granting leave as prayed.

By Mr. Doub:

Q. Was that as to all the defendants in that case?

(Mr. Genn) Same objection to this line of interrogation, Your Honor.

(The Court) Overruled.

(The Witness) The order for dismissal reads as follows:

> "Pursuant to Rule 48 (a) of the Federal Rules of Criminal Procedure and by leave of the Court endorsed hereon the United States Attorney [1208] for the District of Maryland hereby dismisses the indictment against J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., Rosabelle Edlin and Jackson D. Rains, Defendants."

Your Honor, there is another line here.

(The Court) Let me see it.

All right. Read the whole thing.

(The Witness) Brackets. "(Superseding Indictment received against same defendants in criminal 25759."

Signed "Joseph D. Tydings,

"United States Attorney."

"Leave of Court is granted for the filing of the foregoing dismissal.

"R. Dorsey Watkins, U. S. District Judge, dated June 5, 1962."

By Mr. Doub:

Q. Now, what is the date of the indictment in No. 25759, criminal? A. That indictment was returned on November 7, 1961.

Q. Does your file indicate why the first indictment was dismissed?

(Mr. Genn) If the Court please, I do not want to keep repeating the objection.

[1209] (The Court) He just read the order.

(Mr. Doub) The order did not show why it was dismissed.

(The Court) I think that the order says, the order, I think, speaks for itself, that he has just read it to the jury.

(Mr. Doub) Very well.

(The Court) You may argue. Anybody may argue it.

(Mr. Doub) I think Your Honor is correct. I agree with that. I think that is all.

Oh, let me ask you this:

By Mr. Doub:

Q. What was the disposition of the second indictment?

(Mr. Genn) Same objection.

(The Court) Well, there is already in the case statements with respect thereto and testimony with respect there to since this would simply make clear what the Court record is with respect to what certain witnesses testified. I think that for that reason, among others, it is admissible.

Go ahead.

(The Witness) The entry in the second case 25759—

(The Court) He asked what the disposition was. It is not the entry. The question is—probably, if you will [1210] let me see the entry and let me see the judgments, I think the question—well, I think we ought to see whether everyone agrees that the entry is sufficient or whether the whole judgment should be written.

Counsel may come to the Bench.

(At the Bench.)

(The Court) The disposition of the case is where the judgment against Edlin—Edlin pleaded not guilty. These

are the essential things whether it is this and this or whether the judgment should be read.

I questioned whether you wished to read the entire judgment. Do you wish to read the entire judgment or merely to read the docket entry. You may have either one.

(Mr. Genn) I object to any of this. This is highly prejudicial.

(Mr. Doub) I do not think you should put in the sentence, now, Your Honor.

(The Court) You asked the question.

(Mr. Doub) What I was talking about was, was he convicted or what the plea was.

(Mr. Williams) May I see it, Your Honor?

(The Court) Here it is. Mr. Doub asked the question and he has a right to ask it.

[1211] (Mr. Doub) I am not sure that the sentence is relevant. I am not sure.

(Mr. Williams) You asked the question.

(The Court) Mr. Doub asked the question of what the disposition was.

(Mr. Genn) And I have objected to this as prejudicial.

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[1212] (The Court) I think Mr. Tydings can offer or someone can offer 97 for identification and say they are identical except the word "knowingly" has been added.

(Mr. Tydings) That is what we had planned to do.

(The Court) I want to keep it as minimized for you. I cannot help it if Mr. Doub asks questions.

(Mr. Genn) It is prejudicial to this defendant, though, Your Honor. We have to treat this as four separate cases for the purposes of the rules.

(Mr. Tydings) We are going to object to Mr. Doub's asking that question. If he wants the entire thing read, we would be willing to have the disposition what it was, period, but not the entire page. Just the sentence.

(Mr. Marion) The change of plea and the entry of the plea but not the sentence.

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[1213] (The Court) Mr. Genn has asked for a continuing objection during the examination of Mr. Butschky to any and all further references to any of the papers contained in file 25038 or 25759. The Court will grant a continuing objection to Mr. Genn with respect to any further questions asked of Mr. Butschky with respect to the contents of those files without his need to renew it . . . .

(The jury is not present.)

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[1216] (The Court) The Court is interested in finding out if Mr. Genn cares whether the sentence is put in, I can see how you might prefer it, either way. That is why I am asking the question.

(Mr. Williams) He is going to object anyway.

(The Court) Of course, he has been objecting. He is not waiving his objection. The other defendants have said that in addition to the change of plea from not guilty to nolo contendere, they wish to show what the sentence was in a brief way.

The Government is suggesting that the fact of the plea be entered and the sentence be [1217] not entered. I can see from your point of view you might prefer it either way; because of the arguments Mr. Williams suggested off the record, I would like to know—without your waiving any point, whether you want it to be only the pleadings or, if I am going to give the pleading, whether you would also rather have the sentence.

(Mr. Genn) At this point my preference would be not to have anything further mentioned than necessary.

(The Court) All right.

(Mr. Williams) Your Honor, then, if Mr. Genn's position is that, I have to take a position of necessity. I am sorry. But Your Honor, I think we must have the sentence brought out by reason of this fact. We have now evidence of a superseding indictment; we must clarify the disposition of that.

Now, Your Honor has told the jury on one occasion at least, that in nolo contendere pleas, that is neither an admission of guilt nor a conviction. I am sorry to say I disagree with Your Honor on that.

* * * * * *

[1218] (The Court) Bring the jury in.

(The jury returned to the courtroom.)

(The Court) Do you take the same position, Mr. Williams takes, Mr. Doub?

(Mr. Doub) I do, Your Honor.

(The Court) Do you take the same position, Mr. Robinson?

(Mr. Robinson) I do.

(The Court) The three defendants all take the same position.

Following the conference at the bench, and reserving to any persons any points that they may have made, the Court is going to ask a question of Mr. Butschky which will embody what the Court held to be admissible and Mr. Butschky, you have produced here criminal file No. 25759, containing an indictment which has been referred to as the superseding [1219] indictment.

Will you give to Mrs. Zielinski the indictment in 25759 so that it may be marked Government Exhibit 97-A in evidence.

(The Clerk) We do not have a 97.

(The Court) Yes, the file. 25759 is government exhibit 97 for identification and government exhibit 97-A is the indictment in that case. The differences between the indictment will be explained to you later.

Mr. Butschky, does your record show that the defendants in the second indictment J. Kenneth Edlin, James W. Bridges, First Colony Savings and Loan Association, Inc., a Maryland Corporation, Rosabelle Edlin and Jackson D. Rains?

(The Witness) Yes, sir.

* * * * * *

[1220] (The Court) Those who were arraigned entered pleas of not guilty?

(The Witness) Yes, sir.

(The Court) Then do your records show that Mr. J. Kenneth Edlin changed his plea from not guilty to nolo contendere?

(The Witness) Yes, sir.

(The Court) On what date?

(The Witness) December 8, 1961.

(The Court) And that plea was accepted by the Court?

(The Witness) Yes.

(The Court) And that on that plea Mr. Edlin was sentenced to six months in prison, to probation for two years thereafter, and to a fine of $8,000.

(The Witness) Yes, sir.

* * * * * *

[1221] (Mr. Doub) Could I ask one question, Your Honor, what was the date of the dismissal of the case?

[1222] (The Witness) This present case.

(The Court) That is 25759.

(The Witness) Yes, sir. June 5, 1962.

(The Court) All right.

The entire file is to be marked for identification and the indictment is to be marked for identification as 97-A.

(Mr. Tydings) One more question, Your Honor.

Mr. Butschky, the date that Mr. Edlin was sentenced, would you put that in the record, also, please?

(The Court) He changed his plea on December 8, 1961.

(The Witness) Yes, sir.

(The Court) And the pre-sentence report was requested and the judgment and commitment order were April 13, 1962.

(Mr. Tydings) Thank you.

(The Court) Exceptions granted to Mr. Genn.

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(Vol. 15 [1401-A]) Thereupon

HARRY B. WOLF, JR.

a witness, being first duly sworn, was examined and testified as follows:

(The Clerk) State your name.

(The Witness) Harry B. Wolf, Jr.

DIRECT EXAMINATION

By Mr. Weiner:

Q. Mr. Wolf, could you give us your occupation, please? [1402] A. Director of the Department of Savings and Loan, State of Maryland.

(The Court) And a member of the Bar?

(The Witness) Yes, sir.

By Mr. Weiner:

Q. Can you tell us whether or not you hold any position with respect to First Colony Savings and Loan Association? A. I am the receiver.

Q. You are the receiver. And when and by whom were you appointed Receiver of First Colony? A. Appointed December 18, 1962 by the Circuit Court for Cecil County in Maryland.

Q. And can you tell us whether you have any duties with respect to the records of First Colony? A. As receiver I am charged with the custody and control of these records.

(Mr. Weiner) Your Honor, I have four records I would like to have the witness identify at this time. . . .

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[1423] Thereupon,—

LOUIS D. GOLDMAN

was called as a witness by and on behaf of the Government, being first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Louis D. Goldman.

(The Clerk) How do you spell Louis?

(The Witness) L-o-u-i-s.

(The Clerk) Louis D. Goldman. Take the stand, please.

DIRECT EXAMINATION

[1424] By Mr. Marion:

Q. Mr. Goldman, I think if you will pull the microphone in a little closer and keep your voice up.

Where do you live, Mr. Goldman A. 1605 Bay Road, Miami Beach, Florida.

* * * * * *

Q. And are you also an attorney, Mr. Goldman? A. Yes, sir.

Q. And where are you admitted to practice? A. I am admitted to practice in the State of New York, United States District Courts for the Southern and Eastern Districts of New York, and the Supreme Court of the United States.

* * * * * *

[1426] Q. And were you thereafter due to be admitted to practice law in the State of Florida? A. Yes, sir.

Q. On what date were you due to be admitted? A. June 1, 1962.

Q. And you were admitted to practice on that date? A. No.

Q. And why were you not admitted to practice at that date? A. I was indicted in Montgomery County.

Q. In Montgomery County, Maryland. A. Yes, sir.

Q. Were you indicted alone or were others with you? A. Three others.

Q. And in connection with the operation of any particular company or corporation? A. First Continental Savings and Loan.

* * * * * *

[1427] Q. Did there come a time when you, yourself, went to work for Mr. Edlin? A. Yes, January of 1960 I started my employment with Mr. Edlin at the First Continental Mortgage Corporation.

Q. By whom were you hired? A. Mr. Edlin.

* * * * * *

[1428] By Mr. Marion:

Q. Now, up to that time in January, 1960, Mr. Goldman, had you had an opportunity to meet Mr. William L. Robinson? A. I met him in December of 1959.

Q. And who was he, to your knowledge? A. Attorney for Mr. Edlin for his various enterprises and he was with him more or less constantly.

* * * * * *

[1433] Q. Now, Mr. Goldman, did there ever come a time when you were named as an officer of First Continental Savings and Loan Association? A. Yes, in April of 1960, Mr. Edlin said [1434] that I was to be the president of First Continental Savings and Loan, Mr. Robinson would be the vice president, and Mrs. Edlin would be secretary-treasurer.

Q. Was this to be on a permanent or temporary basis? A. A temporary basis. Mr. Edlin stated that he would obtain a man who was known in the field or as we would term it "a big name" to replace the office of president and perhaps that of vice president.

I was only there on a temporary basis as the president.

Q. Now, for how long a period of time after April, 1960 did you remain temporarily as president of First Continental? A. Until I resigned on December 14, 1961.

Q. A period of over a year and a half? A. Yes.

* * * * * *

[1438] Q. Did there come a time thereafter when you did have occasion to meet Congressman Johnson in person? A. Yes, sir, I met him in the early part of 1961 at his apartment at the Fairfax Hotel in Washington, D. C.

Q. And at whose suggestion or direction did you meet him at that time? A. I went there with Mr. Edlin and Mr. Robinson.

Q. Did you have any prior conversation with either Mr. Edlin or Mr. Robinson as to the reason for that visit?

A. Yes, prior to going to the Fairfax Hotel, we were still at the Woodner in Washington, and getting ready to go—Mr. Edlin told me that he wanted me to prepare an affidavit stating that a certain conversation, about April, 1960 with Mr. Drano, that Mr. Drano had stated that [1439] he was acting on behalf of Jimmy Hoffa of the Teamsters Union.

Q. Let us back up a minute. A. Yes.

Q. You say a conversation which had taken place in April of 1960? A. Yes.

Q. What did that conversation deal with, in April of 1960, if you know? A. Well, the conversation in April of 1960 dealt with a loan that Mr. Drano was attempting to make from First Colony with reference to some property at Sun Valley in Florida.

Q. Who was present at that discussion in April of 1960? A. Mr. Drano, Mr. Edlin, Mr. Robinson and I.

Q. At that time was there any mention made of the name of Jimmy Hoffa? A. No.

Q. Did that discussion in April result in any later transaction involving First Continental? A. Well, yes, in June of 1960, First Continental Savings and Loan purchased a treasury note of $100,000 from Mr. Drano for $80,000.

Q. It had a face value of $100,000?

* * * * * *

[1440] Q. What was it that Mr. Edlin told you he wanted you to put in an affidavit before you went to see Congressman Johnson? A. In April then of 1960 Mr. Drano had made mention of the fact he was acting for Mr. Hoffa of the Teamsters Union.

Q. Did you make such an affidavit? A. I refused to do that.

Q. Why? A. Because it was not true.

Q. What, then, did Mr. Edlin ask you to do if anything? A. Then Mr. Edlin told me that he wanted me to tell Con-

gressman Johnson that Mr. Hoffa was involved in that Mr. Drano had mentioned the fact Mr. Hoffa was the one for whom he was acting. I refused to do that.

Q. Did Mr. Edlin tell you why he wanted you to [1441] tell that to Congressman Johnson? A. He mentioned something to the effect that the Congressman would speak with someone who was close to Mr. Hoffa and thereby might be able to do something about getting the one hundred thousand dollars back for the association.

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(Mr. Genn) If the Court please, may we approach the Bench?

(The Court) Yes.

(At the Bench.)

(Mr. Genn) First of all, Your Honor, this testimony thus far is highly prejudicial. I do not know as to its materiality in this case but this is one more notch in the question of nailing this to a bad-man case. That is all that this is bringing out. Whatever probative value it may or may not have, that is it. I object and move for a mistrial because it is sought to bring out, and it can lead to [1442] further prejudicial information if the Government pursues this. Because there is some evidence I understand somewhere along the line that this is supposed to have been a stolen treasury bond. That is the contention.

I believe, Your Honor, that it has been highly prejudicial and I do not see its materiality. But in any event, it is not bringing this defendant a fair trial.

(The Court) What is the relevancy and materiality of the evidence, Mr. Tydings?

(Mr. Genn) Could we make this quietly?

(In open court.)

(The Court) Will the jury retire. I think there has been a request that we discuss certain matters and I think that it

is very difficult to discuss them without voices carrying as far as the jury so I think you had better retire at this moment.

(The jury retired from the court room and the Bench conference continued as follows:)

(Mr. Tydings) Your Honor, the Government proffers that this witness will testify that when he went in Mr. Edlin took him in to see Congressman Johnson, that he refused and he did not [1443] tell Congressman Johnson that Mr. Drano was acting for Hoffa at that meeting.

The Government also proffers to show that later on both Congressman Johnson and Congressman Boykin went to the Department of Justice and told Officials there that Mr. Drano had been acting for Mr. Hoffa and that Mr. Edlin could be an important witness for them and they asked him to look into the area of Mr. Edlin's possible cooperation in connection with the investigation in Florida. We think this is relevant because it shows that the actual story which was told the Department of Justice was not entirely what it should have been and that the principals involved knew it.

(The Court) Well, suppose that was so, how does it tie in with the conspiracy in this case?

(Mr. Marion) It is one of the inducements.

(The Court) You say this is in effect; in effect you say this is an act in furtherance of the conspiracy.

(Mr. Tydings) Yes, Your Honor.

(The Court) An act engaged in by Boykin and Johnson at the suggestion of Edlin with or without [1444] Boykin or Johnson knowing that it was untrue but that it was something that Edlin was trying to get Boykin and Johnson to say to the Department of Justice as sort of a quid quo pro for dismissing the indictment against Edlin.

Well, if so, it might be an act in furtherance of the conspiracy even though it has not been mentioned in the indictment. The Government is not limited in proving a con-

spiracy to—it seems to me to be very minor as compared to the possible confusion of the issues along the lines that Mr. Edlin has spoken of. How far does the Government intend to go in it?

(Mr. Tydings) No further.

(Mr. Marion) We are going to ask him what he told Mr. Johnson.

(Mr. Genn) I think this is a violation. As I have said earlier, this is highly prejudicial.

(The Court) If you represent a man who will do things like that as part of his effort to get Congressmen to persuade the Department of Justice to drop an indictment against him, I do not see that you have any right to complain about it. If this was an act which your man instigated and suggested and which was carried out, either knowingly or unknowingly [1445] by Johnson and Boykin as in furtherance of the conspiracy.

(Mr. Robinson) If I may interrupt for a moment, sir. The testimony of this witness is so far as it has gone to this time was that the purpose of this discussion was to have Mr. Johnson act in a capacity to assist the association to recover money and for no other purpose.

Now, I will say I intend to cross examine on the particular point as to Congressman Johnson's services in that regard.

(The Court) Certainly, you can do it. The witness has not yet said what Mr. Tydings has indicated he expected to prove.

(Mr. Tydings) We did not mean to get off quite so far on that. We will get right to the heart of it.

(Mr. Genn) The point I am trying to make for the record on this is that the import certainly of what this witness has said is in effect that Mr. Edlin is a liar and I think that that is what you end up with in this situation because he said he did not sign the affidavit.

Now, what significance would it be in [1446] the case except to show that he has a bad character as far as his statements are concerned? It does not add anything.

(The Court) Up to the point as to which evidence has so far been offered, You might have a good point, Mr. Genn, but if the Government succeeds in following it up as they say they propose to do by showing that Mr. Johnson and Mr. Boykin did make these representations, then it ties in as an act in furtherance of the conspiracy.

If the proposed representation is untrue, it does not make it any less an act in furtherance of the conspiracy.

(Mr. Williams) Your Honor, I think—speaking for Boykin, before I can state a position on this, it becomes important to know whether the Government's theory is that Mr. Johnson and Mr. Boykin were misled by this and thereafter misled the Department officials or whether they were knowing conduits of mis-information to the Department.

I gather from what counsel for the Government have said that this line of proof is to show, if it goes through to its normal conclusion, that Mr. Johnson was misled at this conversation, is that right?

[1447] (Mr. Marion) Mr. Johnson was advised of what the facts were and he went to the Department and held out Mr. Edlin's alleged ability to—

(The Court) In spite of knowing.

(Mr. Marion) In spite of knowing what Mr. Goldman told him. He went ahead and used Mr. Hoffa through Mr. Edlin as bait for the Department of Justice.

* * * * * *

[1451] Go ahead.

By Mr. Marion:

Q. Now, Mr. Goldman, at the time you first met Mr. Johnson in early 1961, did you go to his apartment with anyone else? A. Yes, with Mr. Edlin and Mr. Johnson.

Q. And did you meet the Congressman at that time? A. Yes, he was in bed with a cold.

Q. Did you go in and talk with him? A. Yes.

Q. Was anyone with you at that time? A. I was introduced to Congressman Johnson by Mr. Edlin.

Mr. Edlin and Mr. Robinson went inside to another room of the apartment to speak with Mrs. Johnson, I presume. I spoke with Congressman Johnson. He asked me what I knew about the treasury note. I told him.

Q. What did you tell him?

(Mr. Doub) When is this?

(Mr. Marion) He said it was some time early in 1961.

By Mr. Marion:

Q. What, if anything, did you tell him was Mr. Hoffa's connection with that particular incident? A. I did not tell him anything about Mr. Hoffa.

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(Vol. 16 [1505]) Thereupon—

LOUIS D. GOLDMAN

a witness, having been previously sworn, resumed his testimony further as follows:

CROSS EXAMINATION

(Mr. Williams) May I proceed, if the Court please?

(The Court) Yes.

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Q. And I believe you said in response to Mr. Marion's [1506] question, that you passed the examination successfully but were not admitted because of the fact that you were indicted? A. That is right.

Q. The fact is that you were indicted eleven times, were you not? A. Yes.

• • • • • •

[1517] Q. Now, Mr. Goldman, going back to 1962 on January 22, and directing your attention to an interview and, as I understand your testimony, the only interview that you had with Mr. Strickland and Mr. Brandes of the [1518] FBI? A. That is correct, sir.

Q. During that interview, I think you said a few moments ago that you were asked about Congressman Johnson? A. That is right, sir.

Q. Now, when you were asked about Congressman Johnson on January 22 of 1962, you told, did you not, Mr. Strickland and Mr. Brandes that you had no information of any kind that Congressman Johnson had ever been paid for interceding with the Attorney General, or any of his assistants in regard to the indictment pending against Mr. Edlin? A. I said that I have no personal knowledge of any payments to Congressman Johnson with regard to interceding with the Attorney General.

Q. Well, you went beyond that, did you not, Mr. Goldman; you told those agents that you had no information with respect to any payments that had ever been made to Congressman Johnson for interceding with the Attorney General or any of his assistants on behalf of Mr. Edlin? A. That is correct, sir, and I have testified to that on the witness stand. I said nothing about my knowledge of any payments being made directly to the Congressman for the purpose.

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[1520] Q. Now, you also never said a single word to Mr. Strickland or Mr. Brandes about Congressman Boykin. In fact his name was not mentioned in the whole colloquy that you had with him, was it? A. That is correct, Mr. Strickland never even mentioned Mr. Boykin.

Q. Yes, sir, but on December 23 of 1961 when you were interviewed by Mr. Mintz and he asked you if you knew

anything about Mr. Boykin, you told him you did not know one thing about Mr. Boykin, did you not? A. Mr. Williams, that is correct, and the reason for that was I did not want to get involved in any scandals with any Congressmen. I did not want to leave myself [1521] open to any libel suits and at the moment I was studying for a bar examination and I did not want to get involved with that.

* * * * * *

Q. When you told him that you did not know anything about Mr. Boykin, whatsoever, was it true or was it false? A. It was not false. He asked me if I wanted to make any statements. We were talking and when he mentioned the name Boykin, I said nothing. Just like that. That was not a falsehood. I was withholding it because, as I said, I did not want to get involved.

[1522] Q. Now, Mr. Mintz turned over to you 17 pink sheets purporting to be his version of his interview with you, did he not? A. Yes.

Q. And you read those over, did you not? A. Of course.

Q. You adopted them, did you, as being what you said to him? Did you agree that this was substantially what you had said to him? A. Yes, sir.

Q. You also told him that night, December 23, 1961, that, as far as you know, Congressman Johnson had never used any pull for Mr. Edlin in his pending criminal case; did you not say that, sir? A. I did. If it is in there, and I think it is, and the same thing holds true there. I still say I did not know that Mr. Johnson had ever been paid to use any "pull."

Q. And you told Mr. Mintz that night during that fourteen hour interview that Mr. Johnson was acting as a lawyer for First Continental and for First Colony and you told him about some of the meetings that you had gone to with Mr. Edlin where subjects involving First Continental and First Colony were discussed, wholly unrelated to Mr. Edlin's pending criminal case, [1523] didn't you? A. That is correct, and I testified to that on direct examination.

Q. And you also told Mr. Mintz during that interview that night that you had no information about any intercession with the Attorney-General of the United States on behalf of Mr. Edlin, didn't you? A. I do not recall making the statement but if it is in there, that is true.

* * * * * *

[1528] Q. Did Mr. Swan (Mr. Goldman's counsel) tell you that he had talked to Mr. Kardy, the District Attorney of Montgomery County about your pleading guilty and testifying against these [1529] men and getting leniency?

* * * * * *

By Mr. Williams:

Q. Did Mr. Swan talk to you, sir, about a conversation that he had with Mr. Kardy about your testifying in the Montgomery County case? A. No, sir, so far as I know, Mr. Kardy and Mr. Swan had never spoken.

Q. Isn't it a fact that extradition proceedings which were pending against you to return you from Florida to Montgomery County to respond to the indictments that were returned against you in May of 1962 were stayed [1530] and have not yet been heard? A. So far as I know, the information that I had gotten with reference to that was the extradition in Florida had been dismissed because Mr. Robinson and Mr. Edlin had appeared in Montgomery County.

Q. Have you ever appeared before the Montgomery County Court to answer the indictments that were returned against you eleven months ago? A. No, sir.

* * * * * *

[1542] We will take our morning break.

(Bench Conference.)

(Mr. Genn) The only thing, Your Honor, there was some indication in the response of this witness, that there was an indictment pending against Mr. Edlin in Montgomery County. Once again, we get into the same thing that I move for a mistrial.

(The Court) I do not remember his saying anything.

(Mr. Tydings) I do recall a response—

(Mr. Genn) The implication again is that there are other indictments outstanding, Your Honor. Well, these people are throwing it in left and right, every chance they get. I move then for a mistrial.

[1543] (The Court) Denied.

When you say "these people," you mean the other defendant?

(Mr. Genn) I mean the witness, himself.

(The Court) It was in response to a question asked by Mr. Williams. Mr. Williams brought it out on cross examination.

Motion denied.

(Short recess.)

(The Court) Mr. Williams.

By Mr. Williams:

* * * * * *

[1568] Q. At no time, Mr. Goldman, did you ever tell Mr. Mintz that you were at any meeting at which both Congressman Boykin and Congressman Johnson were present, did you? A. I do not think the occasion ever arose.

Q. Well, Mr. Mintz did ask you, did he not, about Congressman Johnson? A. Yes.

Q. He did ask you about those occasions on which you saw Congressman Johnson, did he not? A. He probably did, yes.

Q. And yesterday you told us on the witness stand that you were in the Congressional Hotel at a private dining room when Congressman Johnson and Congressman Boykin [1569] and Mr. Edlin engaged in a conversation when suddenly Mr. Edlin said something to the effect, "I want results. This is costing me a lot of money."

And Congressman Boykin reared back and said, "How dare you speak to me this way," and Congressman Johnson said, "Take it easy," is that right? A. That is right.

Q. You did not tell Mr. Mintz about that on December 23, 1961, did you? A. No, sir, I did not and I explained to you early this morning the reasoning why I did not.

Q. What was the reason? A. I said I did not want to get involved in any scandals with any Congressmen.

Q. Now, when agents Brandes and Strickland of the FBI interrogated you about meetings with Mr. Johnson on January 22, 1962, you did not tell them about any meeting that Congressman Johnson was at at which you were present and at which Congressman Boykin was present, did you? A. The questions that the agent asked me at that time were with reference to the fact, did I know of any payments that were made to Congressman Johnson to intercede with the Attorney General, and my answer to that was "No."

Q. When you went before the Grand Jury on [1570] February 27, 1962, you were asked about meetings that you had with Congressman Johnson, were you not? A. I believe so.

Q. You had told Mr. Mintz of the Washington Post on Dec. 23, 1961 that you had had four or five meetings with Mr. Johnson, had you not? A. Three or four or five, I do not remember.

Q. And before the Federal Grand Jury sitting in this Court House you told the story of five meetings with Congressman Johnson, did you not? A. I do not remember how many I told about.

Q. But at no time did you tell the Grand Jury of any meeting at which you were present when Mr. Boykin and Mr. Johnson were both present, did you? A. No, I do not think I did.

* * * * * *

[1587] By Mr. Williams:

Q. Now, do you know the reason why there has been no extradition proceeding with respect to you in the State of Florida by the State of Maryland in ten months? A. There had been an original extradition proceeding.

Q It was dropped? A. Yes.

Q. It has not been repressed? A. Not to my knowledge.

* * * * * *

[1594] CROSS EXAMINATION

By Mr. Genn:

* * * * * *

[1597] Q. Now, there came a time, did there not, Mr. Goldman, when you formed, or were interested in a corporation known as Dorsa Enterprises, is that not correct? A. That is correct.

Q. When was that corporation formed? A. It was filed November 9, 1962 in the State of Florida. 1961, not 1962.

Q. Sir, just shortly then before your resignation in December of 1961, is that correct? A. That is correct.

Q. Now, where was that corporation formed? A. In Miami, Florida.

Q. And who were the persons who were active in its formation? A. Raymond H. Gannon and myself.

[1598] Q. And what were the business purposes of that corporation to be? A. To act as mortgage brokers.

* * * * * *

[1603] By Mr. Genn:

Q. There had been mention in your testimony yesterday, Mr. Goldman, concerning the statement repeating that Mr. Edlin is supposed to have made concerning an affidavit that he supposedly sought from you in reference to the bond transaction or transactions with Mr. Dranow—and again correct me if I am wrong, but as I recall your testimony,

the import of it was that he sought an affidavit from you that Mr. Hoffa's name was not mentioned in the transaction. A. That is not true.

(Mr. Marion) It is the other way around.

(Mr. Genn) I am sorry; that he sought an affidavit from you that Mr. Hoffa's name was mentioned and that you did not sign such an affidavit because that was not true?

(The Witness) That is correct.

[1604] By Mr. Genn:

Q. Now, when you, Mr. Goldman, think of or are given the name "The Teamsters Union," what is the first name you think of—what is the first name—if you were questioned concerning a statement, someone says "Teamsters Union" —who is the first person you associate with that phrase? A. You mean discussing words in association with words?

Q. Yes. A. It might not be Mr. Hoffa.

Q. Is there any other person that you would be thinking of if you were asked to speak about someone in connection with the Teamsters Union? A. It might be the man in New Jersey who got a $50,000 raise from the Teamsters Union.

Q. Now, is it not a fact, sir, that in the conversations with Mr. Dranow, that you referred to, there was reference to the Teamsters Union? A. There was reference to the Teamsters Union only with reference to a hotel in Miami, the Everglades Hotel. Mr. Robinson and Mr. Dranow got into a conversation about that particular hotel which was undergoing foreclosure by the Teamsters Union.

Mr. Robinson mentioned the fact that he knew the [1605] attorneys for the present mortgagor and he would be glad to offer his services to Mr. Dranow if it would help in getting the matter straightened out and he was told no, thank you. That was the only reference to the Teamsters Union at that time.

As a matter of fact, to go one step further, the Treasury Note was not mentioned at that meeting.

Q. Now, nonetheless, sir, within three or four weeks there was a meeting in which the treasury note was mentioned. A. No.

Q. Going into this particular meeting, is it not true that in fact it was not a question of Mr. Hoffa's name not being mentioned as you stated, but the fact that you did not remember whether his name had been mentioned at the meeting? A. No, that is what your client was trying to get me to say that I did not remember and I did remember that it was not mentioned.

Q. I refer you, sir, to page 18 of the Grand Jury testimony and will read the following at pages 17 and 18 and ask you whether or not you so testified.

"Question: Was there any reference to Mr. Hoffa at that time in the conversation?

"Answer: No, the only reference was [1606] Teamsters Union. Of course, we assume Hoffa, the head of the Teamsters Union but Hoffa's name has not been mentioned at the time.

"Question: When you told Mr. Edlin that you would not say Hoffa was directly involved what did Mr. Edlin say?

"Answer: He tried to convince me that the conversation we had with Dranow, rather, he had with Dranow brought out the name 'Hoffa'.

"Question: And you told them Hoffa's name wasn't in it.

"Answer: I told them I did not remember Mr. Hoffa's name being mentioned. If it was, I don't remember."

Did you so testify, sir? A. That is right. You are reading from the grand jury minutes?

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(Vol. 17 [1636-1637])

PROCEEDINGS

(The jury is absent.)

(The Court) All right. Let us go ahead.

(At the Bench.)

* * * * * *

[1660] (The Court) Mr. Genn has something.

(Mr. Genn) Your Honor, I received yesterday from Mr. Tydings the statement in regard to Mr. Meyer and I am assuming that Mr. Meyer will probably be on the stand today. Now, I would like to avoid the difficulty of having to object to each question again and revert back to what the Court permitted me to do with regard to Mr. Butschky. I have indicated to the Court before we entered on this case, that this is an area of sensitivity as far as this defendant is concerned, and I would like to have, with reference to all of his testimony, a continuing objection on two grounds: One, it is prejudicial and 2, I do not think it is relevant or material.

Now, if I have to object to this prejudicial matter before the jury continually, it is even more prejudicial and I would like to have that continuing objection to his testimony throughout without having to constantly renew it and interject.

(The Court) Does the Government have any objection?

(Mr. Tydings) No.

* * * * * *

Robert F. Kennedy testimony begins on page .... App. 837

* * * * * *

[1815] CHARLES H. Z. MEYER

a witness, being duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Charles H. Z. Meyer. M-e-y-e-r.

DIRECT EXAMINATION

By Mr. Weiner:

Q. Give us your address. A. Room 229 U.S. Court House, Chicago, Illinois.

Q. Chicago, Illinois? A. Yes, sir.

Q. What is your occupation? A. U. S. Probation and Parole Officer.

Q. How long have you been a probation and parole officer? A. The last 28 years.

Q. Now, that has been in Chicago for the last 28 years? A. Chicago, Illinois.

[1816] Q. I would like to direct your attention to the morning of June 13, 1961. I would like you to tell the jury whether or not you were at work on that day. A. I was.

(Mr. Doub) What day is this?

(Mr. Weiner) June 13, 1961.

By Mr. Weiner:

Q. Can you tell us whether or not on that date you had occasion to receive a telephone call? A. I did.

Q. And were you in your private office, or your room at the time that that call came in? A. I was in the office but not at my desk.

Q. Tell us whether or not you were informed of this call? A. I was.

Q. By whom? A. The telephone operator in our office.

Q. And what, if anything, did you do after you were informed that a call had come in for you? A. She told me there was a call from Washington, D. C. and showed me a slip on which she had made the record.

Q. She showed you a slip on which she had made the record? A. She did.

[1817] (Mr. Weiner) Your Honor indulge me one moment.

(Pause)

(Mr. Weiner) Would you mark this for identification, please, a yellow memorandum to be marked as government exhibit 123 for identification.

(The Clerk) Government exhibit 123 marked for identification.

(Government exhibit 123 marked for identification.)

By Mr. Weiner:

Q. Now, I show you this yellow slip of paper which has just been marked government exhibit 123 for identification and I ask you whether you can identify that as anything you have ever seen before? A. I have.

Q. What is that? A. A memorandum of a call, used by our telephone operator to remind the officer of a call.

Q. Is that the one that was shown to you by your secretary on that date? A. It was or it is.

Q. Now, on the basis of that memorandum, did you have your secretary return the call? A. I did.

[1818] Q. And what did you do when you directed her to return the call? A. I went to my desk to await the call.

Q. All right. Then what happened? A. The voice at the other end identified itself as "Congressman"—

Q. Speak into the microphone. A. I am sorry. The voice on the other end of the telephone line identified himself as being that of Congressman Frank Boykin from Mobile, Alabama.

Q. When he identified himself, what if anything was said by either you or the person on the other end of the telephone? A. He asked if I was the man who supervised Mr. Edlin, and I said I am. That I did ten or eleven years ago.

Q. You say you told him you did ten or eleven years ago? A. Yes.

Q. What, if anything, did—

(Mr. Genn) May we approach the Bench, if the Court please?

(The Court) Tell me what you want.

(Mr. Genn) Object to the line of questioning [1819] for the reasons I have stated for the Court and for the record to show I have an objection to this line of questioning.

(The Court) On the proffer of the Government that the evidence which they propose to elicit from this witness will be substantially in accordance with what is alleged in the indictment and not go beyond that with respect to the matters as to which your motion applies, I will overrule your objection.

I will instruct the jury again that any offense which Mr. Edlin may have committed in connection with Illinois or any activity in connection with any parole or probation in connection with such offense is not to be held against him and not to be considered by the jury in its consideration of this case unless and until the Court instructs the jury otherwise. Mr. Edlin's character one way or the other is not in issue in this case and this testimony is only relevant and material in so far as it may support one of the alleged overt acts in connection with the alleged conspiracy.

By Mr. Weiner:

Q. Now, Mr. Meyer, can you tell us what, if anything, either you or the other participant in this telephone call said after you identified yourself and your prior relationship with Mr. Edlin? [1820] A. Well, I was told that Congressman Frank Boykin and Congressman Thomas Johnson of the First District of Maryland--

Q. Keep your voice up. A. —were interested in the investigation.

(The Court) Who told you?

(The Witness) Well, the voice at the other end which I assume was Congressman Boykin.

By Mr. Weiner:

Q. Yes. What did this voice tell you? A. That he and Congressman Johnson were interested in the investigation of savings and loan associations and that Mr. Edlin was active in this area and they wished to know more about his background and my experience with him.

Q. Now, can you tell us whether or not any specific savings and loan association was mentioned by name? A. It was not.

Q. Now, I notice on the back of the paper which is Government exhibit 123 for identification, there is some writing. Did you write that? A. Yes, I did.

Q. Can you tell us whether or not you wrote that in the course of the telephone conversation? A. During the course of the telephone conversation.

Q. Now, what, if anything was said to you after this [1821] last statement that you just related.? A. If I could come to Washington the next day, I said I needed the approval of my superior, that I probably could arrange to leave Chicago the following day and arrive in Washington the day thereafter.

Q. What, if anything, was said by the other person with respect to your superiors? A. That, if necessary, they would be willing to talk to my superiors.

Q. What, if anything, was said after that? A. " We will take care of your expenses. The transportation ticket will be waiting for you," or words to that effect.

Q. How did you leave the conversation? A. That I was to call them back if I could not make it.

Q. You were to call him back if you could not make it. A. Yes.

Q. Now, can you tell us whether or not later that same day you had occasion to receive another telephone call? A. Yes, I did, late in the afternoon I received a telephone call from J. Kenneth Edlin.

Q. You received a telephone call from Mr. Edlin? A. Yes.

[1822] Q. Tell us what, if anything, was said in this telephone conversation? A. He said that he was in Chicago, staying at the Hotel and asked when I would be leaving work.

I said, "About 5:30 o'clock."

He asked if I would stop by the hotel on my way home.

Q. Stop by the hotel. Your hotel or his hotel? A. His hotel.

Q. Where he was staying? A. Yes.

Q. Did you do that? A. I did.

Q. Where did you go when you went to the hotel at which Mr. Edlin was staying? A. I went up to his room.

Q. And when you arrived at his room, was he there? A. He was there.

Q. Was anyone else with him at that time? A. I do not believe so.

Q. Tell us what, if anything transpired after you went to Mr. Edlin's hotel room? A. Well, after the usual greeting, some small talk.

[1823] He said he understood I was going to go to Washington, D. C. to Congressman Boykin and Congressman Johnson. He said that they wanted to know more about him and his activities in the past. He said there was an investigation going on by Congressman and the Attorney General regarding savings and loan associations and that Congressman Johnson was particularly interested in this adea, in this problem or this situation and had made speeches of record in Congress, and that he is very much concerned.

He said that they knew—I say "they," I mean the Congressmen—knew that he had been on parole and that they wanted to have some first-hand, apparently, wanted

some first-hand information. They wanted to hear from me first-hand.

He asked how I was going? Yes, he asked how I was going and I said "By train."

He asked whether the office was giving me the fare.

Q. He asked you whether you were getting the fare from your office? A. Yes, whether I was going by office and I said "No, that the Congressman had said that they would take care of my expenses."

He said, "Your ticket wil no doubt be [1824] available to you."

Q. Mr. Edlin said a ticket would no doubt be available to you? A. He said that.

Q. What, if anything happened after this conversation? A. Somewhere along in this conversation a man entered into the room, yes, came into the room.

Q. Another man came into the room? A. Another man came into the room.

Q. Was that man introduced to you? A. He was.

Q. Can you look around the court room here and tell us whether you can identify that other man as being someone in this court room? A. If that man down there will take off his glasses.

Q. That one right there? A. Yes.

Q. Is the person who just took his glasses off, the one? A. Yes, it is.

(Mr. Weiner) Let the record show that the witness indicated the defendant W. L. Robinson.

By Mr. Weiner:

Q. Now, what, if anything happened after Mr. Robinson [1825] came into the room? A. Oh, there was conversation and after a while Mr. Robinson picked up the telephone and called Washington, D. C.

Q. And— A. While I was in the room.

Q. While you were in the room? A. Yes.

Q. And the three of you were in the room and Mr. Robinson called Washington, D. C.? A. Yes.

Q. Did you hear who he was speaking to? A. Well, from his conversation it sounded like he was speaking to Congressman Johnson.

Q. Well, did you happen, after he spoke on the phone, did you happen to get on the telephone? A. Yes, the telephone was handed to me and I spoke with a person who was identified on the other side as Congressman Johnson.

Q. You spoke to a person on the other end of the phone? A. Yes.

Q. Who identified himself to you as being Congressman Johnson? A. Yes.

[1826] Q. And what, if anything was your conversation with this person? A. I said that I had permission to go—my superior had given me permission to go and I would be able to leave late the following afternoon from Chicago and arrive in Washington, D. C. Thursday, June 15, it would be then, of 1961.

Q. Now, after you finished speaking, did anyone else speak on the telephone to this other person? A. Well, I am not too sure. I think that Mr. Edlin did but—

Q. You are not sure? A. I am not really sure.

Q. Now, did you leave on the following afternoon, June 14? A. I did.

I left at four o'clock on the B&O Railroad.

Q. By train? A. By train.

Q. When did you arrive in Washington, D. C.? A. I arrived in Washington, D. C. Thursday morning, June 15, 1961.

Q. Now, what if anything happened when you arrived at the train station in Washington? [1827] A. I started for the cab stand and was on the way there. Mr. Robinson approached me or met me and said he wanted to take me directly to Congressman Boykin's office.

He hailed a cab and we got into it and went directly to the House of Representatives.

He then took me directly to Congressman Boykin's office, introduced me and left the two of us alone.

Q. He took you into Congressman Boykins' office and left you and Congressman Boykin alone, you say? A. Yes.

After some informalities.

Q. Did you pay for the taxicab? A. I did not.

Q. Did you pay any of the expenses of this trip? A. I did not.

Q. What, if anything took place after you went into Congressman Boykin's office and were with him? A. After the usual greetings and introductory remarks, he asked me how long I had known Mr. Edlin.

I indicated that I had known him for the last 19 years, nine of which were officially as his parole and probation officer.

[1828] Q. And what, if anything else was said in this conversation? A. He asked something to the effect, as to how I got acquainted with him.

I said that, through an SEC violation for which he was sentenced for four years and placed on probation, five years thereafter.

Then I was asked how we made out?

Well, not exactly that way. I was asked were there any difficulties and I said that there were not. That he was very cooperative.

He reported to our office more often and to me more often

than actually required. Sometimes weekly and that there was no difficulty except toward the end of his supervision period when two Federal agencies and a state agency—

(The Court) Is there any need to go into this?

(Mr. Weiner) No.

(The Court) I do not think we ought to go into this any more than is necessary to show the alleged proposed connection.

(Mr. Weiner) Yes, sir.

By Mr. Weiner:

Q. Now, after you finished telling Congressman Boykin these things that you told him what, if anything, [1829] happened then? A. Well, I did point out that it had been satisfactory.

Q. You did point out that the probation had ended satisfactorily? A. Yes.

Q. And, after you pointed that out to him and finished your conversation with him, what if anything happened then? A. Oh, Congressman Boykin took me to Congressman Johnson's office.

Q. Congressman Boykin took you to Congressman Johnson's office? A. Congressman Boykin took me to Congressman Johnson's office.

Q. Was that in the same building? A. Yes. We talked there.

Q. What happened after you arrived in Congressman Johnson's office? A. Well, Congressman Johnson was busy. There were some men in his office and so I waited in the outer office and Congressman Boykin went in and after a while these gentlemen left the office, and I was ushered into Congressman Johnson's office and was introduced to Congressman Johnson by Congressman Boykin.

Q. First Congressman Boykin went in—was [1830] with

Congressman Johnson before you went in? A. Yes. I did not go in right away. No, I had to wait in the outer office.

Q. You were asked to come in after that? A. Yes.

Q. Did you then have a conversation—when you went in there, into Congressman Johnson's office, did Congressman Boykin stay? A. No, he did not. I do not remember his being around. He left. I do not remember his being there when I talked to Congressman Johnson. No, he left.

Q. Did you then have a conversation with Congressman Johnson? A. I did. Substantially the same as the other.

Q. You told him substantially what you had told Congressman Boykin? A. Substantially the same.

Q. Now, what if anything, happened after you told this to Congressman Johnson? A. Congressman Johnson pointed out or, yes, pointed out that he was very much interested in the investigation of savings and loan associations, that he had made speeches in Congress and that he was very much concerned with their proper regulation.

Q. What, if anything, happened after this [1831] conversation? A. I was ushered back into the outer room and on the way out, someone handed me some papers and also a cook book and material that was being distributed by Congressman Johnson's office to his constituents.

Q. You were handed some material? A. Yes.

Q. I would like to show you a paper reprint from the Congressional Record marked Government Exhibit 91, and I would like to ask you if you can identify that as a paper which you have seen before? A. Yes, it is.

Q. Is that paper that was handed to you? A. It is.

Q. Now, I call your attention to the fact that certain paragraphs in that paper are blocked out in red. A. Yes.

Q. Do you recall whether they were blocked out in red when that paper was handed to you? A. Yes, they were.

Q. They were at that time? A. Yes.

(The Court) Do you want to identify that? You have just spoken of a paper but there is nothing in the [1832] record to—

(Mr. Weiner) It is Government Exhibit 91—the reprint of the Congressional Record speech of Congressman Johnson of June 30, 1960.

(Mr. Doub) Has the witness identified this as the paper given to him or that he received a paper that resembled that, or was a copy of that?

(Mr. Weiner) Do you recall bringing the copy that was given to you to Baltimore?

(The Witness) I did.

By Mr. Weiner:

Q. Back in May of 1962? A. I brought a paper. I did.

Q. Was that the paper that had been given to you in Congressman Johnson's office, that you brought to Baltimore then? A. It looks like it.

(The Court) To whom did you give the paper that you brought to Baltimore?

(The Witness) This paper?

(The Court) Yes, if that is the one. That one or a paper just like it. To whom did you give it in Baltimore?

(The Witness) I gave it, at the grand jury [1833] hearing, I gave it to the U.S. Attorney. The United States Attorney.

(Mr. Tydings) That was the paper marked for identification.

(The Court) Is that what you wanted to know, Mr. Doub?

(Mr. Doub) I am still not clear whether that is the one he got.

(Mr. Tydings) It is marked Grand Jury Exhibit in the upper right hand corner. We brought it to the Court's attention when it was originally offered in evidence.

By Mr. Weiner:

Q. Now, Mr. Meyer,—

(Mr. Doub) Would you ask him who gave him that paper?

(The Court) He said it—yes. Do you remember who gave it to you originally in Congressman Johnson's office?

(The Witness) I do not remember who originally gave it to me. It was given to me in Congressman Johnson's office.

(The Court) Were any other papers given to you at the same time?

(The Witness) Yes, there were two other papers.

[1834] Somewhat like this and then also, well, material that was being distributed by the Congressman to his constituents. I think one was a cook book and had recipes. I did not look at them too closely, I glanced at them.

By Mr. Weiner:

Q. This material was all given to you at once? A. It was all given to me while I was in the office. I cannot tell you whether it was all given to me at once. I do not think it was all at once. I do not think it was a bundle, if that is what you mean.

Q. No. Now, Mr. Meyer, what, if anything, happened after this?

You say you were out in the outer office, this material was given to you.

What, if anything, happened after that? A. I was ushered back to the outer office and I glanced at this material quickly and was waiting and after a while Congress-

man Boykin and Congressman Johnson came out and approached me and indicated that this information which I had could be very useful or helpful to the Attorney General and should be given to him.

Q. You say Congressman Johnson and Congressman [1835] Boykin came out. Did they come out of Congressman Johnson's office? A. Into the other office, yes.

Q. Had you observed Congressman Boykin going back in after you had come out? A. No, I had not.

Q. So you do not know when he went back in after you came out? A. I do not know. I cannot say.

Q. All right. A. I probably was looking at the papers and did not see. I do not know.

Q. What was told to you? A. Well, that information that—

Q. Who said it first? A. One of the two.

Q. Either Congressman Johnson or Congressman Boykin? A. I cannot remember who said it.

Q. Was the one who said it then in the presence of the other? A. They were together.

Q. Yes, and what was said? A. That the information which I had could be very helpful to the Attorney General and should be given to him—words to that effect.

[1836] Q. What, if anything, did you then do after that? A. I went with them. They secured a taxicab and I went with them in the cab to the Attorney General's office.

Q. Did anyone else go with you and the two Congressmen? A. Yes, Mr. Robinson.

Q. Mr. Robinson went along with you? A. Yes, he met us along the way somewhere. It was either outside of the office or by the office.

Q. He went with you? A. In the cab, yes.

Q. Did you then go to the Department of Justice? A. We did.

Q. Where, in the Department of Justice, did you go? A. We went first to the Attorney General's office and were informed that he was not available, or was not in.

Q. Did all four of you go to the attorney general's office? A. All four of us were there.

Q. Now, after you were informed that the Attorney General was not then there, what, if anything, did the four of you do? A. Well, we were referred to the First Assistant to [1837] the Attorney General, Mr. Herbert Miller.

Q. Mr. Herbert Miller, the Assistant Attorney General? A. Yes.

Q. Did you then go to the Assistant Attorney General's office? A. Not right away. I stayed on the outer office but Congressman Boykin and Congressman Johnson went into Mr. Miller's office.

Q. Is Mr. Miller's suite of offices right next to Mr. Kennedy, or is it a distance away? A. I do not recall whether it was. It is some distance. That is quite an expansive space.

Q. Did the four of you then go—tell us whether or not the four of you went from Mr. Kennedy's suite of offices down to the assistant attorney general's suite of offices? A. No, just two. Congressman Boykin and Congressman Johnson went to the Assistant Attorney General's office. I sat down in the outer room.

Q. In whose outer room, the outer room of whose office? A. Well, I guess it must be the First Assistant, Mr. Miller's.

Q. Mr. Miller's office? [1838] A. Yes.

Q. Where was Mr. Robinson at that time? A. He was busying himself with some telephone calls and then disappeared. I think he went in the hallway or something. He disappeared for a while.

Q. The hallway outside of Mr. Miller's suite? A. Yes.

Q. Now, what happened after the Congressmen were in Mr. Miller's office? A. Well, after a while they opened up the door and invited me in and closed the door behind them and introduced me to Mr. Miller and—well, introduced me.

Q. What were the conversations at the time you were there with the Congressmen and Mr. Miller? A. Well, Mr. Miller just asked me, I cannot just exactly remember but he asked me about Mr. Edlin and then stated that, very briefly stated that he was busy or previously engaged and could not take the time to question me. He requested that I go and see one of his assistants by the name of Mr. John J. Cassidy.

He gave me the room number and it was, being unfamiliar with the building, I had no idea where this was, so he took a blue pad and drew a map for me and after he drew it, it was still too complicated, and so he [1839] offered to get, secure a guide for me.

Q. Did someone then come who went with you down to Mr. Cassidy's office? A. When he suggested securing a guide, someone opened the door and Mr. Robinson was 'way at the other end of that waiting room and they called him in.

Q. Someone called Mr. Robinson in? A. Yes.

Q. And showed Mr. Robinson or explained to Mr. Robinson how to get there? A. Yes.

Q. And then what happened? A. Mr. Robinson took me directly over to Mr. Cassidy's office.

(Mr. Weiner) If Your Honor please, I would like to have marked for identification government exhibit 124, the blue pad entitled "From Assistant Attorney General Criminal Division."

(The Clerk) Government exhibit 124 marked for identification.

(Government Exhibit 124 marked for identification.)

By Mr. Weiner:

Q. Now, Mr. Meyer, I show you government Exhibit 124 for identification, a blue sheet entitled "From [1840] Assistant Attorney General Criminal Division," and I ask you if this is the piece of paper that Mr. Miller gave you? A. Yes, this is, the map he drew.

Q. The little map he drew in the upper righthand corner? A. Yes.

Q. When you went down to Mr. Cassidy's office with Mr. Robinson, what happened then? A. Well, when Mr. Cassidy came out, the first thing, of course, Mr. Robinson spoke to the girl. Mr. Cassidy came out, Mr. Robinson introduced me to Mr. Cassiday and said that I had certain information regarding the Edlin matter which Mr. Miller wished me to give to him.

Q. Mr. Robinson said this? A. Yes. When he introduced me. Then Mr. Cassidy took me into a private room off this waiting room, closed the door and asked me—said, "I do not know what this is all about."

I said, "I do not, either."

So, when I said Mr. Miller had directed me to come over—

Q. I want to comply with his Honor's direction. You then proceeded to tell Mr. Cassiday what you knew about Mr. Edlin? [1841] A. No, not at that time because Mr. Cassidy called Mr. Miller for instructions and then Mr. Cassidy said after the phone call, said "Well, this will take some little time to do. Why don't you go to lunch first and come back after lunch about 2:30."

Q. Did you go to lunch? A. I did.

Q. Had you previously made any appointment with anyone for lunch? A. I had not made an appointment but Congressman Boykin was kind enough to invite me to lunch.

Q. Congressman Boykin had invited you to lunch? A. Yes.

Q. Did you go then and have lunch with Congressman Boykin? A. Yes.

Q. Where did you lunch? A. In some Congressional dining room. He had a large delegation from Alabama.

Q. There was a large group of people there? A. Yes.

Q. You just attended the luncheon? A. Yes.

Q. There was no discussion of the case at that time? [1842] A. No, nothing at all.

Q. Now, after the luncheon did you then go back to the Justice Department to Mr. Cassidy's office? A. I did.

Q. When you went back did you then have a discussion with Mr. Cassidy? A. Yes, I did. He took me back into the same interview room and called for a secretary, closed the door and that afternoon—well, Mr. Miller had given, I had asked Mr. Miller specifically what he wanted and he said that he was too busy and had another appointment. But these were the instructions. I should start at the beginning of my experience with Mr. Edlin and tell all I knew as best I could recall it.

These were my instructions and this is what we did in this private interview room, myself, Mr. Cassidy and the secretary.

Q. In this conversation you just mentioned where Mr. Miller told you this was after the two Congressmen had been in with Mr. Miller alone? A. Yes.

Q. Then you spent the afternoon telling Mr. Cassidy what you knew? A. I did.

[1843] Q. What, if anything—about what time was it that you left Mr. Cassidy's office? A. It was around five o'clock, very close to it.

Q. When you left Mr. Cassidy's office, did you have

occasion to meet any one on your way out? A. Well, I went out in to the long hallway and I was sort of lost just at the moment to know what to do and then after awhile Mr. Robinson appeared 'way at the far end and came and said "I want to take you to your hotel." So we took a taxicab.

Q. And went to a hotel? A. Yes.

Q. Had you made reservations at this hotel to which you were taken? A. No, I had not. I did not know where I was to go.

Q. At what hotel were you then taken? A. The Woodner.

Q. The Woodner? A. Yes. Am I pronouncing it right? W-o-o-d-n-e-r.

Q. I think that is the way it is pronounced. In Washington, D.C.? A. Yes.

Q. And what, if anything happened when [1844] you and Mr. Robinson got to the Woodner Hotel? A. We walked up to the desk and Mr. Robinson announced who I was and the girl handed me the key to the room.

Q. Did you then go to your room? A. Yes.

Q. After you were in your room, you had occasion to have supper that evening, did you? A. Well--

Q. Dinner that evening? A. Yes.

Q. And with whom did you have dinner then? A. I went to my room and freshened up and was sitting there and wondering what to do next when, maybe a half hour or 45 minutes later, I received a call from Mr. Robinson, and he asked what I was doing and how—if I had any plans and I indicated I did not, and he said, asked whether—if I wished to join him and his wife and little daughter for dinner.

I accepted.

Q. At this dinner there was not any discussion? A. None at all.

Q. About what time did you finish your dinner with him? A. I do not know. It was not a long dinner. [1845] About an hour and a half, let us say.

Q. What did you do then after dinner? A. I went back to my room alone and I was tired. I was exhausted and so I laid down on the bed and tried to read a little bit and that was it, and about ten o'clock or somewhere along in there, the telephone rang.

Q. Who was it? A. Mr. Robinson. He asked what I was doing. If I had any plans. I said no. And he said "how would you like to see the hotel? It is a lovely hotel and cocktail lounge."

Q. Did you then join him? A. I did.

Q. At the cocktail lounge? A. I did. We always met downstairs in the lobby. He never went up to the room with me. No one did.

Q. When you were at the cocktail lounge, did anyone arrive? A. Yes, after about two or three other men, either arrived or were around there. I think they arrived—it seems they arrived and Mr. Robinson seemed to know them and called them over to our table and introduced them.

Q. They joined your party, joined the two of you? A. Joined the two of us.

[1846] Q. Did there come a time when someone else who you knew arrived? A. Yes, roughly an hour later. I was about ready to leave and about an hour later, Mr. Edlin arrived and joined us.

Q. Was he with you awhile? A. I did not hear you.

Q. Was he with you awhile A. He was with us awhile.

Q. Now, what, if anything happened when you got up to leave the cocktail lounge? A. I was tired and I got up and started to leave and excused myself and started to leave and then Mr. Edlin got up and walked with me down the hallway.

Q. To the elevator? A. Yes.

Q. Did you have any conversation with him at that time? A. Oh, not much but he did ask about my discussion with Mr. Cassidy. I said that I gave him whatever information I had but that I did not see how this ancient history information was related in any way to any current investigations that might be going on.

Q. You said you could not see how what you knew was related to any current matter? [1847] A. Any current matter, yes.

Q. Can you tell us whether or not you knew at the time of your trip to Washington, D.C. that Mr. Edlin was under indictment in the District of Maryland? A. No, I did not. I knew that he was being investigated but I did not know about the indictment.

Q. You did not know about the indictment? A. No.

Q. Then you spent the day in Washington on your own business and went back? A. Yes, I went to the Administrative Office, to our office and spent the day there and went back to my own the following evening.

Q. To Chicago? A. I arrived in Chicago on Saturday June 17, I think would be the date.

(Mr. Weiner) If Your Honor please, I would like to offer into evidence at this time Government Exhibit 123 and 124 for identification.

(The Clerk) Government Exhibits 123 and 124 previously marked for identification now marked into evidence.

(Government Exhibits 123 and 124 marked in evidence.)

* * * * * *

(Vol. 18 [1859]) (In open court.)

(The Court) Bring the jury in.

Thereupon

CHARLES H. Z. MEYER

a witness, having been previously sworn, resumed his testimony further as follows:

(The Court) Any further questions on direct?

(Mr. Tydings) No more, Your Honor.

(The Court) Mr. Doub?

CROSS EXAMINATION

By Mr. Doub:

Q. Mr. Meyer, you testified yesterday that upon arrival in Washington, you and Mr. Robinson, or [1860] Mr. Robinson took you up to the office of Mr. Johnson, do you recall that? A. Congressman Boykin.

Q. The office of Congressman Boykin. A. Yes, sir.

Q. Now, you had never seen either Mr. Johnson or Mr. Boykin prior to your visit? A. No.

Q. To the office? A. I had not.

Q. Now, after they left you at the Department of Justice, after introducing you to Mr. Miller, you never saw Mr. Johnson again, did you? A. I did not, no.

Q. You said that before going up to the Department of Justice, you talked to Mr. Boykin and Mr. Johnson for, I believe you said, ten or fifteen minutes? A. I do not know whether I put a time on it.

Q. How long was it? A. Perhaps about fifteen minutes.

Q. About fifteen minutes? A. A piece.

Q. Now, didn't Mr. Johnson in the course of your conversation with him express particular interest in whether there were any convictions of Mr. Edlin [1861] other than that 20 years before in 1941?

(Mr. Genn) The same objection, Your Honor.

(The Court) Overruled.

(The Witness) Would you repeat that, please?

(Mr. Doub) Read it, please.

(The question was read.)

(The Witness) Convictions before 1941.

By Mr. Doub:

Q. Before or after? A. Before or after.

Q. Before or after.

(The Court) The question is just to be answered "yes" or "no."

(The Witness) Yes.

By Mr. Doub:

Q. He did express an interest in that? A. Yes.

Q. And he asked you whether you knew of any conviction of Mr. Edlin other than that in 1940, did he not? A. Yes.

Q. You replied you did not? A. I did not.

Q. And did he not say that there was a mixup in the Justice Department as to Mr. Edlin's criminal records?

[1862] (Mr. Genn) The same objection.

(The Court) Well, I think, if there is an objection, I do not think this is the way to prove any such matter.

(Mr. Doub) Your Honor, it is important to us to prove exactly what was said by Mr. Johnson and by this witness in his presence and we certainly are entitled to do that.

(The Court) You can ask that but it does not tend to prove the facts, Mr. Doub.

(Mr. Doub) No.

(The Court) I instruct the jury, while it is admissible to

prove the nature of the conversation between them, it does not prove the fact that there was any mixup in the Department of Justice.

(Mr. Williams) I suggest it goes to prove the purpose of the visit which the witness has testified about.

(The Court) Yes, I am merely saying it does not go to prove there was any mixup in the Department of Justice.

(The Witness) It is the word "mixup" that has me stumped. He did say—he asked to review the past experiences.

By Mr. Doub:

[1863] Q. Well, that is right. A. For better understanding.

Q. Yes. What did you tell Mr. Johnson and Mr. Boykin about that 1941 conviction at that time? A. I started to tell about it yesterday. I said Mr. Edlin has been convicted on a Securities and Exchange Commission violation for which he was sentenced four years—placed on probation five years thereafter, and he was paroled early, perhaps in half the time. I do not remember that. I had him under supervision for all that time until June of 1950, I believe it was.

Both wanted to know—and then I pointed out Mr. Edlin had been cooperative. They wanted to know about my experience with him. I said he had been cooperative, had reported weekly, and much more often than actually required, because he was very active in business interests in Chicago and that everything went along very smoothly until toward the close of his supervision period when two federal agents and a state agency and two officials of a local bank came into our office with information alleging that he had exercised extreme indiscretion and unsound judgment in the handling of his business affairs.

I then pointed out that we took all of this information to

the United States Attorney in Chicago and after he reviewed it, he said there was insufficient [1864] evidence.

Then we took all the material to the Court of original jurisdiction, the Federal Court in Detroit, Michigan, and received back a written statement that there was insufficient evidence and the case was closed as satisfactory.

Q. Didn't you tell Mr. Johnson and perhaps Mr. Boykin that you had talked to the prosecution witnesses who testified against Mr. Edlin in the SEC case in 1941? A. I do not know whether I spelled it out. They were already familiar with that but I affirmed it.

Q. Didn't you tell them that you thought that in your opinion the conviction was most questionable? A. Well, that the conviction was questionable?

Q. Yes. A. Oh, I do not think I said it that way.

Q. You do not think you went that far? A. I did say there was difficulty in the whole thing.

Q. Did you tell them that in your opinion the prosecuting witness was prejudiced and biased and gave his testimony for personal reasons; did you tell them that? A. Well, my finding was that a prosecuting witness was too emotional about it.

Q. Didn't you say that you had officially reported that and, as a result, you almost lost your job with [1865] the Probation Department of the District Court in Chicago? A. Yes, not exactly that way but I affirmed it. I was asked this. They had all this information.

Q. Now, when was it Mr. Johnson or Mr. Boykin who asked you whether you would be willing to talk to Mr. Herbert Miller, head of the Criminal Division of the Department of Justice? A. Oh, they both did.

Q. They both did? A. They both were there. I do not know which one said it.

Q. One of them did. Now, didn't Mr. Johnson tell you

in that connection that he wanted you to tell Mr. Miller everything you knew about Mr. Edlin? A. No, he did not.

Q. What did he say that he wanted you to tell Mr. Miller? A. I was told, or I was given to understand that the information which I had would be helpful to the Attorney General in his review and that it should be given to him.

Q. What should be given to him?

(The Court) Let me finish. He has not finished.

(The Witness) The information which I had should be given to the Attorney General. It was the first assistant, or the assistant attorney general, Mr. Miller, [1866] who told me to start from the beginning and go all the way through.

Q. That is right. A. And tell everything I knew to the best of my recollection.

Q. And didn't Mr. Johnson and Mr. Boykin tell you the same thing? To tell Mr. Miller the same thing? A. Well—

Q. That was your purpose in going up there, was it not, or their purpose?

(The Court) Which question do you want him to answer—the first one or second one? There are two different questions.

(The Witness) Yes, they said that this information should be given to the Attorney General.

By Mr. Doub:

Q. Now, you testified yesterday that you obtained a reprint of a speech of Mr. Johnson in his office. Who handed you such a speech? A. This I do not know.

Q. Was it a girl? A. When I got to the seat I had a whole series of papers and who gave them to me, I really do not know. I think the girl handed me some and a man handed me some. I just cannot tell you but I got them there.

[1867] Q. As a matter of fact, that reprint could have been given to you by Mr. Robinson or Mr. Edlin, could it not? A. What could have been given to me by Mr. Robinson or Mr. Edlin?

Q. That reprint of a speech you identified yesterday? A. Yes, sir. It was not given to me by Congressman Johnson.

Q. No, and it was not given to you by anyone in his office, his employees, was it? A. I do not know that.

Q. You do not know who gave it to you? A. I do not.

Q. It could have been Mr. Edlin? A. He was not there.

Q. Could it have been Mr. Robinson? A. It could have been.

Q. Now, you testified that you were interviewed by Mr. Cassidy in his office in the Department of Justice? A. Yes.

Q. All afternoon? A. For several hours—a couple of hours.

Q. You had been referred to him by Mr. Miller? A. I was.

[1868] Q. And that you got out of his office about five o'clock? A. Around there.

Q. Didn't he have a secretary there to whom he dictated a statement of the facts that you gave him? A. In the inner room were three of us, Mr. Cassidy, the secretary and myself; that is all that was there. The door was closed.

Q. Would you tell him certain facts and then he would dictate it to the secretary? A. Or indicate that she should take it.

Q. Take down what you were saying? A. Take down something.

Q. Now, did he supply you with a copy of that statement thereafter? A. No, he did not.

Q. Did you have a file with you, a written file that you brought with you to that meeting? A. I had some notes and a copy of my pre-sentence but I did not have the entire file.

Q. Did you have any probation reports with you? A. I do not think so. I do not recall. No, I do not think so. I was told not to bring the entire file, so I did not. But I had some more notes. I had a pre-sentence investigation report and some notes.

[1869] Q. Do you have those notes with you? A. With me now—no.

(Mr. Doub) I call on the Government to produce the statement taken from this witness by Mr. Cassidy.

(The Court) On what ground?

(Mr. Doub) I think it is relevant.

(The Court) On what ground?

Are you claiming it under the Jencks Act, or are you asking them to produce it under some other theory, as a general request to see it? This comes flatly, it seems to me—I do not see how this is possibly a Jencks Act paper. It is not an interview about this case at all.

(Mr. Doub) Your Honor forgets why the Government called this witness and I think that when they call him and I am not going to state why they did at this point, but if Your Honor will consider why the government called him, what his testimony was on direct examination, I think we are entitled to know whether he fully and correctly made representations to the Department, and what they were.

(The Court) I did not say you can not have the paper if the Government gives it to you. I am asking you the basis on which you are asking for it, whether you are

claiming it under the Jencks Act. Evidently you [1870] are not claiming it under the Jencks Act.

(Mr. Doub) I am claiming it under the Jencks Act and outside of the Jencks Act. Your Honor, there is no objection to it. Your Honor is interrogating me on this when the Government has not even objected to it.

(Mr. Tydings) We have some questions, Mr. Doub.

(The Court) You demanded the Government to give it to you. I did not ask them to give it to you. I will now rule it is not subject to the Jencks Act. Now, do you still ask the Government to give it to you?

(Mr. Doub) I say, Your Honor, there is no ruling before you until the Government refuses to produce it.

(Mr. Tydings) Do you maintain the copy of the report is the best evidence of what the witness told Mr. Cassidy? Is that the reason you want to see it? Because, if that is the reason, the Government will now offer it into evidence if that is the reason you wish to see it.

(Mr. Doub) I do not know whether it is or not.

(Mr. Tydings) You have to have a legal point.

(The Court) You must know, Mr. Doub, the basis on which you are asking for it because the effect of—if it comes under the Jencks Act, it is one effect.

[1871] If you ask for it as best evidence, which Mr. Tydings suggested, there is another result. If you ask for it for some other reason, there may be a third result. I want to know the basis on which you are asking for it. Are you asking for it under the Jencks Act?

(Mr. Doub) Yes.

(The Court) I rule that it does not come within the Jencks Act.

(Mr. Doub) All right.

(The Court) Do you still want it?

(Mr. Doub) I do.

(The Court) All right, give it to him, Mr. Tydings.

(Mr. Doub) The witness said yesterday, Your Honor, this was "a can of worms" to get into this.

(Mr. Tydings) That was not this matter, Mr. Doub.

(The Court) This witness did not say anything about a "can of worms."

(The Witness) No, I did not.

By Mr. Doub:

Q. Mr. Meyer, neither Mr. Johnson nor Mr. Boykin attempted to influence you in any way as to the information you were to furnish the Justice officials about Mr. Edlin, did they? A. No, there was not any kind of influence at all.

[1872] Q. And the information you furnished to Mr. Cassidy and to Mr. Johnson and Mr. Boykin was based on fact to the best of your recollection? A. Yes.

Q. You stated the facts as accurately as you recalled them? A. As accurately as I could recall them, with the help of my notes.

(Mr. Doub) That is all.

(Mr. Williams) Your Honor, I think the record should show that I have not looked at the document handed to Mr. Doub by Mr. Tydings pursuant to Mr. Doub's demand for its production.

(The Court) The record may so indicate.

(The Court) Is Mr. Genn going to examine? I think we might as well—while we are getting the record straight—while we were getting that, I wanted to be sure. It looks like Mr. Genn's associate was coming up for the paper. I want to know whether you were going to look at it so

that we would have on the record at the same time who was seeing it and who was not for whatever effect that may have on any ruling.

(Mr. Robinson) The defendant Robinson declines to examine it.

(Mr. Genn) We make no attempt at this time, Your Honor.

[1873] I imagine, as Your Honor has said, we will cross that bridge when we get to it.

(The Court) So, who has it now?

(Mr. Tydings) Mr. Doub has returned the copy.

(The Court) Go ahead, Mr. Williams.

CROSS EXAMINATION

By Mr. Williams:

Q. Mr. Meyers, I want to take you back, if I may, sir, to June 13, of 1961.

(Mr. Tydings) Do you think we should have this copy marked for identification?

(Mr. Williams) Mr. Tydings, you may do anything you choose with it.

(Mr. Weiner) The Government would like to have marked for identification as Government Exhibit 125 the copy of the stenographic report of the interview called for in open court by Mr. Doub and furnished to him.

(The Clerk) Government Exhibit 125 marked for indentification.

(Government Exhibit 125 marked for identification.)

(The Court) All right, Mr. Williams. Now, I think we can let you start.

(Mr. Williams) Thank you, sir.

[1874] By Mr. Williams:

Q. Mr. Meyer, I started to direct your attention to June 13 of 1961. That was the day on which you received a call from Washington from Congressman Johnson and Congressman Boykin, is that correct? A. That is correct.

Q. And later the same day, as I recall your testimony, sir, you received a local telephone call in Chicago from Mr. Edlin? A. I did.

Q. It was pursuant to the telephone call that you received from Mr. Edlin that you subsequently joined him at his hotel? A. I did.

Q. I will ask you, Mr. Meyer, if you will carefully departmentalize in your mind, if you can, sir, what information you received in the telephone call from Mr. Johnson and Mr. Boykin and what information you received thereafter from Mr. Edlin for the purposes of my questions? A. After Mr. Johnson's telephone call?

Q. Yes. What I am asking you to do is to departmentalize what information you received from Mr. Johnson and Mr. Boykin and what you thereafter received from Mr. Edlin. I am going to ask you this specific question. Is it not the fact that when Mr. Johnson and Mr. Boykin [1875] called you, thereafter you returned the call and had a conversation with them? A. Yes, sir.

Q. That they told you they were looking into a savings and loan case? A. Using the word "case." I did not have that impression.

Q. Well— A. They were looking—the impression that I received was that they were looking into the savings and loan matter and that Mr. Edlin was involved.

Q. Well, excuse me. A. Yes, go ahead.

Q. Well, is it the fact that they said, Mr. Meyer, to you as best you can recall at this time, that they were looking into a savings and loan matter in which Mr. Edlin was in-

volved and they wished to get some information from you? A. Yes, Mr. Edlin was involved.

Q. And when they said that they were looking into a savings and loan matter in which Mr. Edlin was involved, they were speaking of themselves, Johnson and Boykin, is that correct? A. This is what I understood.

[1876] Q. Yes.

Now, thereafter when you came to Washington on the 15th of June and you had a conversation with Mr. Boykin and then with Mr. Johnson, did each of them ask you about the record of Mr. Edlin? A. Yes, they did.

Q. In fact, you brought, pursuant to request by them, the pre-sentence investigative report of Mr. Edlin? A. Oh, yes, but they did not ask for that. I brought this on my own. That was not asked for. I brought that on my own so I would have what they wanted.

Q. You brought that because you knew, did you not, the subject matter on which they wanted to question you? A. Yes, on Mr. Edlin's background and what he had done.

Q. And the pre-sentence investigative report which I assume was dated back in 1940, was it, Mr. Meyer? A. 1941, April or March of 1941, somewhere in there.

Q. —had in it Mr. Edlin's background prior to that time? A. It did.

Q. And it reflected whether or not he had any criminal record prior to that time, did it not? A. It did.

Q. Is that correct? [1877] A. It did.

Q. And when you saw Mr. Boykin and thereafter Mr. Johnson, each of them asked you what that report showed, did they not? A. Well, they did not ask what the report showed. They did not know I had the report with me. They asked me about his background and whether there—what I knew about it and what—if you leave out "what the

report showed," I will say yes, because they did not know I had a report.

Q. Let us see if we can specify it and pin point it. They asked you, did they not, whether he had a record that antedated 1941? A. That is right.

Q. Did he have a record before 1941? A. Yes.

Q. Were there convictions before 1941, this one about which we know? A. Yes, sir.

(Mr. Genn) The same objection, Your Honor.

(The Court) Overruled.

By Mr. Williams:

Q. Now, Mr. Meyer, on that same day you went to the Department of Justice. A. I did.

[1878] Q. And it was there that Mr. Miller referred you to Mr. Cassidy? A. That is correct.

Q. And before you began your conversation with Mr. Cassidy, Mr. Cassidy called Mr. Miller on the phone and he asked "what do you want me to talk to Mr. Meyer about," is not that so? A. Mr. Cassidy asked me first.

Q. Or at least he called Mr. Miller in your presence? A. He did.

Q. And he had a conversation with Mr. Miller? A. He did.

Q. Was that while you were there? A. While I was there.

Q. It was at that point he said "This is going to take some time; why don't you go to lunch and come back after lunch and we will talk?" A. Correct.

Q. And then you came back after lunch and you had your conversation with Mr. John Cassidy? A. John Cassidy.

Q. How long did that conversation last? A. There were

some interruptions. I must have gotten there between 2 and 2:30 and I did not leave until 5 o'clock. It was not continuous. There were some [1879] interruptions.

Q. Without going into the whole colloquy that you had with Mr. Cassidy, Mr. Meyer, would you tell us the substance of the questions that he put to you? A. A two-hour discussion in a couple of minutes?

Q. Well, let me see if I can shortcut that. Would you tell the Court and the jury what kind of questions he asked you? A. Well, he asked me, Mr. Miller had given instructions—I had asked Mr. Miller before I left him specifically what it is that you wish, and he said that I should begin at the beginning, my first acquaintance with Mr. Edlin, follow all the way through, to the best of my recollection.

So, Mr. Cassidy apparently received the same instructions, so Mr. Cassidy asked, "When did you first become acquainted with Mr. Edlin?"

I indicated, because it was my assignment, he was assigned to me by Court order for a pre-sentence investigation and report. I never knew him before or never saw him before. That was about March—I forget, about March 6. It was in 1941. Somewhere along in there.

Then he kept asking questions, "What happened next?" and so on.

Quickly I pointed out that I made a very detailed [1880] investigation and that I interviewed the witnesses. Well, I interviewed the witnesses and that I had a peculiar experience with one of the witnesses who kept me there until two o'clock in the morning. Well, do you want me to tell this whole business? What do you want?

Q. What I want you to tell us, Mr. Meyer, as best you can—I just ask you what kind of questions did he ask you? Let me help you out. Was he primarily interested in whether you had any information as to whether Edlin had

a record, a criminal record? A. He did ask me that and there was no criminal record.

Q. Prior to 1941? A. Prior to 1941.

Q. And were his questions primarily directed to this fact? A. Not for the whole afternoon. Just for the start.

Q. For the start. Now, were the other questions that he propounded to you, Mr. Meyer, primarily directed to get the facts in the case in which Mr. Edlin had been convicted in 1941, in so far as you knew them? A. Yes.

Q. Is that a fair statement? A. That is a fair statement. He wanted the facts.

Q. And did you to the best of your knowledge and [1881] information give to Mr. Cassidy all of the facts that you had on that case? A. I did.

Q. Did you turn over to Mr. Cassidy a copy of the presentence report? A. No, I did not.

Q. You did not give it to him? A. I did not.

Q. But you used it. You did use the report as a basis upon which to give him oral information about the case? A. Yes, he wanted the dates and I had to look at the report in order to get the dates.

Q. Now, did Mr. Cassidy ask you as to your impression with respect to the validity of the case against Mr. Edlin in which he was convicted? A. No, he did not.

Q. He did not ask you that? A. No.

Q. Did you give him any information notwithstanding he did not ask you on that subject? A. Well, the facts spoke for themselves.

Q. I see and you did give him so much of the factual background of that case as you had? A. As I had, yes, sir.

[1882] Q. And that is, I take it, what consumed the greater portion of the interview? A. It did.

Q. Now, then, I will take you back to a point about two hours before that, Mr. Meyer. Did you also give to either Mr. Boykin or Mr. Johnson the kind of information that you gave to Mr. Cassidy in a shortened version? A. It was very short. With Mr. Cassidy I was detailed.

Q. Is it a fair statement to say, Mr. Meyer, that you gave to Mr. Boykin and Mr. Johnson, first of all, information with respect to the criminal record of Mr. Edlin? A. It is.

Q. Then you gave them a very sketchy background of the case in which he had been convicted? A. I did.

Q. It was then that it was suggested to you to go to the Department of Justice? A. Yes.

Q. And give this information? A. Yes.

Q. And you were told, were you not, Mr. Meyer, to tell whomever was your interviewer at the Department, the whole truth about the matter? [1883] A. I was.

(Mr. Williams) I have no further questions.

(Mr. Doub) I have just one more question, Your Honor, if I may.

(The Court) Well—

(Mr. Doub) May I ask just one question?

(The Court) I think we ought to keep this in order. I think Mr. Genn is next. Let us go down the line and back up the line so we do not just jump in and out. You will have a chance coming back up the line.

(The Court) Mr. Genn?

CROSS EXAMINATION

By Mr. Genn:

Q. Mr. Meyer, with respect to the last question that was asked you as to what you were told in terms of the whole truth, Mr. Edlin told you to tell that to the people, too, did he not? A. Oh, he did; they all did.

(The Court) Any questions, Mr. Robinson?

(Mr. Robinson) No questions.

(The Court) Mr. Williams, coming back up the line.

(Mr. Williams) No.

[1884] (The Court) Mr. Doub?

(Mr. Doub) Yes, sir.

FURTHER CROSS EXAMINATION

By Mr. Doub:

Q. Mr. Meyer, neither Mr. Johnson nor Mr. Boykin paid your expenses from Chicago to Washington or from Washington back home, did they? A. The first part I did not get. "Neither" what?

Q. Neither Mr. Johnson nor Mr. Boykin paid your expenses to Washington? A. I do not know.

(The Court) Who did pay them?

(Mr. Doub) Well, did either one of them pay you any money?

(The Witness) No, I know I did not pay it.

By Mr. Doub:

Q. I understand that. A. Yes, sir.

Q. But they did not pay you any money—did they? A. No.

(The Court) Who did pay for your ticket?

(The Witness) I do not know. I was not given any money. I do not know.

(The Court) Did you pay for it, yourself?

(The Witness) I did not. I thought I was—

[1885] (The Court) Where did you get your ticket?

(The Witness) Over the telephone I was told—that these were the words—"we will take care of your expenses and transportation will be there."

(Mr. Weiner) Whose words were they?

(The Witness) They must have been Congressman Boykin's because he is the one I was talking to. That was the voice at the other end of the line.

(The Court) You must have used a ticket for the train?

(The Witness) Yes, sir.

(The Court) Where did you get the ticket?

(The Witness) It was either—where did I get the ticket? Well, it was delivered to me at the office or else I picked it up at the railroad station. I do not recall. I tell you, I took several trips about that same time. Sometimes I picked up the tickets and sometimes it was given to the girls in our office and they gave it to me and sometimes it was delivered, but the ticket was delivered.

(Mr. Williams) Maybe I can help if I may ask another question or two.

(The Witness) I can tell you how I felt about it. I felt I was on Congressional expense. I am sorry.

[1886] (Mr. Williams) Let me ask you about some facts.

FURTHER CROSS EXAMINATION

By Mr. Williams:

Q. Did Mr. Robinson give you your train ticket? A. He probably did.

Q. Now, when you went to the Woodner Hotel, was that at Mr. Edlin's suggestion? A. No. I stepped out, after I got through with Mr. Cassidy, I stepped out in the hallway, and I felt lost because there was not anyone there. Then after a while 'way down the corridor I saw Mr. Robinson coming in.

Q. Mr. Robinson took you to the Woodner? A. Yes, sir.

Q. When you had dinner at the Woodner that night with Mr. Robinson, did he pay the check? A. I guess he did.

Q. When you had cocktails after resting up later in the evening, did Robinson or Edlin pay the check? A. I did not. I guess they must have.

Q. And this was the very hotel where Robinson and Edlin were staying, is that right? A. I do not remember if Robinson was staying there or not. I guess maybe they were. I believe they were.

[1887] Q. Because Mr. Robinson and his wife and little girl had dinner with you, did they not? A. I met them downstairs.

Q. They came downstairs, did they not? A. Yes.

Q. Does that refresh your recollection that it was Mr. Edlin or Mr. Robinson who paid your check at The Woodner Hotel? A. I was not there. I cannot tell you who paid it.

Q. When you left, you just left. You did not stop at the desk and pay? A. No, I did not. I just turned the key in and left.

Q. Turned the key in and left. Did you sign anything when you left? A. Not a thing.

(Mr. Williams) Your Honor, that is the most remarkable escape from The Woodner Hotel I have heard of.

(The Court) Did you have a ticket that had the tax paid or not tax paid; was it a government voucher ticket, the tax is paid or was it a ticket showing the transportation tax included?

(The Witness) Really, I do not know. I did not look at it.

[1888] (The Court) That is the easy way to tell.

(The Witness) It was not a "T.R."

(Mr. Tydings) This is a most remarkable trip, Your Honor.

The Government would like to offer, since Mr. Doub used it to cross examine the witness and since Mr. Williams interrogated the witness at length about what he told Mr. Cassidy in the Department of Justice since Mr. Genn also cross examined the witness and asked him whether or not Mr. Edlin told him to tell the truth there, I think the jury should see the report of the memorandum of what Mr. Meyer did tell Mr. Cassidy in the Department of Justice. If there is no objection to this, we would like to offer it in evidence at this time.

(Mr. Doub) May we approach the Bench?

(Mr. Genn) I have not seen the document.

(The Court) You may, of course, see it before it is admitted.

Let them read it.

If they are going to read it I suppose there will be some argument. Suppose the jury takes a short recess now.

(The jury left the jury box.)

(The Court) May I have a copy of it so I may be reading it at the same time.

[1889] Has everyone read this?

All right, bring the jury in.

(Mr. Williams) It appears to be incomplete, Your Honor. It says on the bottom that there is an attached memorandum. We do not seem to have that.

(Mr. Weiner) It is not from this witness. This purports to be a record.

(The Court) That is what he said that William Robinson gave someone for transmission to you. You see, this is a memorandum to Miller from Cassidy.

(The jury resumed their places in the Courtroom.)

(The Court) Now, Mr. Tydings has offered this paper in evidence. Do any of the defendants object to its being admitted in evidence and read to the jury?

(Mr. Williams) I think it only affects one defendant, Your Honor, does it not, because only Mr. Doub called for it.

(The Court) Mr. Doub called for it but it may be admissible. If there is any objection to it, Mr. Tydings will have to say the grounds on which he offers it against each defendant and I will cross bridges as I come to them.

Do you object to it?

[1890] (Mr. Doub) I object to it, Your Honor, on the ground that it was—there is no evidence that it was ever seen by Mr. Johnson.

(The Court) All right. Do you object to it, Mr. Williams?

(Mr. Williams) I certainly do not object to this going in, Your Honor, if it is being offered against me.

(The Court) You say you do not object to it.

(Mr. Williams) No, I do not object to it.

(The Court) Do you object to it, Mr. Genn?

(Mr. Genn) I have already stated the objection previously. It is prejudicial.

(The Court) You do object?

(Mr. Genn) Yes.

(The Court) Mr. Robinson?

(Mr. Robinson) No, I do not.

(The Court) Now, two defendants are objecting to it, Mr. Tydings. On what basis are you offering it? It might be admitted against Mr. Johnson on the ground Mr. Doub asked for it in which event it would not be admissible against any other defendants. The Court must determine, as I have

done in the case of other papers, whether the balance of justice requires it to come in or not to come in.

[1891] If you are offering it as you suggested a moment ago, as the best evidence of what was said, that is something else. On what basis are you offering it?

(Mr. Tydings) Well, if Your Honor please, the Government feels that Mr. Meyers' trip to Washington and his visit with Mr. Cassidy, his conference there, was an act in furtherance of the conspiracy as alleged in the indictment.

Mr. Meyer has been cross examined extensively by three of the four counsel as to exactly what Mr. Meyer told to Mr. Cassidy when he was at the Department of Justice as we contend in an act in furtherance of the conspiracy, and we feel that since there has been cross examination, that the jury is entitled to see what the Department memorandum reflects.

(The Court) All right.

(Mr. Genn) I thought I saw a juror raise his hand as if to ask a question.

(A Juror) Just the lights over there.

(The Court) Pull the curtain down.

(Mr. Tydings) We would only offer it as to what he told the Department. We do not wish to prejudice any of the three defendants who objected. If you feel it does prejudice any of the three defendants, we would rather not have it in. We feel it is admissible for [1892] the reasons stated.

(The Court) You are not offering it on the technical basis as against him. Now, before it would be admissible on the basis that Mr. Tydings is offering it and with his qualification that if the Court feels it is too prejudicial, they would not want it, it seems to me there would have to be two additional matters of proof: One, whether the witness, himself would say that this was a fair summary of what he did say, or Mr. Cassidy was produced to say it was a fair summary

of what he did say. Is any defendant objecting to it on that basis? I take it the reasons for the objection are other than that this is not a fair summary.

Then the next question would appear to be—and this would be relevant, as to whether everything in here or substantially everything in here was told to Johnson and Boykin before he went over.

Mr. Williams' cross examination brought out the fact that the conversations with Johnson and Boykin dealt with the prior criminal record and their not being any, and the background of the case. There are some other matters discussed in here other than the two matters referred to in Mr. Williams' cross examination. If this is to be admitted on the grounds that Mr. Tydings wants it, it seems to me it is not a matter of what the witness told the [1893] Department of Justice but a question of what the witness told Mr. Johnson and Mr. Boykin before he went to the Department of Justice and—

(Mr. Doub) And he has already testified to that, Your Honor.

(The Court) Well, he has testified as to what he told them and it is for the jury to say, certainly, on the basis of all the evidence what he did tell them, whether it was the same that he told the Department of Justice in substance or whether it was not the same that he told the Department of Justice, that would be for the jury.

Now, neither side wants to ask any further questions on this point. Now, for the Court to go further in it, unless further questions are asked by one side or the other, I will sustain the objection of Mr. Genn to this document and, since Mr. Tydings has said if the Court feels it is more prejudicial to one, that he would withdraw it or not press his offer, I will sustain the objection on that ground unless someone wishes to follow it up to clarify, if either side thinks clarification is necessary, of what the witness told Mr. Johnson and Mr. Boykin.

(Mr. Tydings) I think we would like to put the witness back on the stand, Your Honor. Perhaps this—perhaps we would like to give the witness the memorandum and let [1894] him read it because I do not know whether he has ever seen it and then we will put him back on the stand and ask him how much of the memorandum he told the Congressmen or whether he told them substantially all of the facts in it or not and we have a few other questions on redirect.

(The Court) Well, in view of the Court's ruling about the document, I think that question should be carefully framed.

(Mr. Tydings) All right, then, I will submit it to the Court.

(The Court) If you write out the question and submit it to the counsel and the Court.

(Mr. Tydings) We can go forward with another witness and ask Mr. Meyer to retire.

(The Court) Let him read it. It will not take too long. Write out the question you want to ask and pass it to them and I will rule on the question.

(Mr. Weiner) I was going to do it on a paragraph-by-paragraph basis, simply directing his attention—

(The Court) That will do no good. I would not do it on every single paragraph. It seems to me, if all counsel will come to the Bench, I will say very briefly how I think this question could [1895] most fairly and simply be asked.

(At the Bench.)

(The Court) It is obvious from the witness' testimony on direct examination and from the memorandum, that the witness talked to the Department of Justice about three things: (1) Mr. Edlin's background of the 1941 conviction; (2) The facts in connection with the 1941 case; and (3) His progress during the parole and probation period.

Mr. Williams' questions dealt, as I have them, with just

about this: Did you give Johnson and Boykin the same information that you gave the Department of Justice?

The witness answered it in not exactly, or words to that effect.

Then Mr. Williams asked, "Did you tell Johnson and Boykin about the criminal record," and he said in substance and briefly.

"Did you tell him about the background of the case," and he said "Briefly."

Then you stopped, you did not ask him whether he told Johnson and Boykin about the progress on probation, and then Mr. Williams questioned—"Did they suggest you go to the Department of Justice and tell the whole truth," and the answer was "Yes," to [1896] that.

Now, it is a matter—and I am not sure which way it cuts in this case and I think it might cut either way—whichever way the answer came. But it would seem that it might be a matter of importance as to whether he told Johnson and Boykin the substance of Edlin's history during probation and parole.

My suggestion, there is only one question at this point, unless someone wants to go further. The question is, "You have heretofore testified that you told Mr. Johnson and Mr. Boykin in brief the same things you told the Department of Justice about the criminal record. In substance the same thing about the background of the case. Did you tell them substantially the same thing?"

(Mr. Doub) Your Honor, he testified he talked to Johnson and Boykin ten or fifteen minutes. He testified that he was with the Department of Justice all afternoon until five o'clock.

Now, a question such as that would then lead inevitably to this thing going in.

(The Court) You already have enough in to show what it was.

All right, do you object to it?

[1897] (Mr. Doub) Yes.

(The Court) I think I will sustain your objection and I think it might prevent evidence coming in which might be the most helpful to you on a directed verdict you could get.

Objection sustained.

All right, Mr. Genn. I cannot decide between the way you people want to try your cases and one wants to do it one way and the other another way.

Mr. Williams, I gather, wants it in and is satisfied to have it in. Mr. Doub wants it out. If there are objections, I am going to sustain them. I think I get in less harm sustaining objections raised by defendants than by overruling objections.

(Mr. Doub) Your Honor, this is a very difficult question for us.

(The Court) I think it is.

That is all.

(Mr. Genn) Does Mr. Doub want time to decide?

(The Court) I sustain the objection.

That is all.

(Mr. Genn) Your Honor, I would like to have the record show this. Is Mr. Tydings still here?

[1898] (Mr. Doub) I do not know where the question would go from then on.

(The Court) All right. If you do not want the question asked, all right.

(Mr. Doub) Let me ask you this question. Your Honor was discussing this with us. If the United States Attorney were permitted to ask that question and said yes, I told them the same thing that would be one thing but wouldn't the

United States Attorney then say, as indicated, he wants to then offer this thing to show what he did tell them?

(The Court) Mr. Doub, I have said it cuts both ways. One way may affect the jury and you have elected to object, and I think it is better not to pursue that.

(In open court.)

(The Court) Mr. Tydings, after conference at the Bench, I think it is better not to pursue that.

(Mr. Tydings) We will not pursue it, Your Honor.

* * * * * *

(Vol. 19 [1988]) Thereupon—

ROBERT E. REISTER

a witness, having been first duly sworn, was examined and testified as follows:

(The Clerk) State your name for the record.

(The Witness) Robert E. Reister.

(The Clerk) Take the stand, please, sir.

DIRECT EXAMINATION

By Mr. Marion:

Q. What is your occupation? A. I am a special agent of the Federal Bureau of Investigation.

Q. Where do you live, Agent Reister? A. I live in McLean, Virginia.

Q. And where are you presently assigned? A. To the Washington Field Office of the Federal Bureau of Investigation.

Q. How long have you been a special agent of the Federal Bureau of Investigation? A. Since September 8, 1942.

Q. Now. directing your attention the month of January,

1962, I ask you whether or not you had occasion to interview Congressman Frank W. Boykin? [1899] A. I did.

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[2007] (Mr. Genn) I have no further questions.

If the Court please, of course, I think it is clear that this having taken place in January of 1962, is after the date of the charges of this man and of course, would not be admissible against the defendant Edlin.

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[2008] (The Court) I think I will waive the formality and say that that is not admissible against Edlin, since the objection is being made.

REDIRECT EXAMINATION

By Mr. Marion:

• • • • • •

[2011] (The Court) You may take your recess at this time.

(A brief recess was taken.)

(Mr. Tydings) If Your Honor please, ladies and gentlemen of the jury, I am going to read to you certain statements made by Mr. Boykin, the defendant, Congressman Boykin under oath, before the grand jury for the District of Maryland on October 11, 1962. I have picked certain passages from his grand jury testimony. Mr. Williams has asked me to insert others and I will read all passages which Mr. Williams has requested as well as those which we feel are pertinent.

Mr. Doub has asked me to state, and I am happy to do so, that the admissions are offered in this case as evidence against Congressman Boykin.

Beginning with page 3:

"By Mr. Tydings:

"Q. Congressman Boykin, you are here at this time in the presence of the Grand Jury of the District of Maryland

at your own request and invitation; is that right, sir? "A. That is right. I also did the same thing over in the State.

"Q. Before the Montgomery County Grand Jury?

[2012] "A. Yes, and gave them all the information I had.

"Q. You realize there is an investigation going on in which you could be a prospective defendant? "A. That is right.

"Q. You realize there is an investigation going on in which you could be a prospective defendant? "A. That is right.

"Q. You realize that you do not have to answer any questions which I direct to you? "A. I will answer any of them.

"Q. You do have your constitutional privileges. "A. I am glad to answer the things I know.

"Q. Fine, but you do realize that anything you do say or might say could be used against you or could be used to incriminate you? A. Right.

"Q. You have the right to counsel and any question you don't want to answer, you don't have to. "A. Good."

Now, reading from page 6, beginning on line 4. Reading through line 25 on that page.

"Q. Do you recall offhand the price of the property which you acquired in Charles County, just roughly? [2013] "A. I don't know and I sent those records to you. As I tell you, I never looked at the records. I bought it as cheaply as I could. I made the best deal I could. I didn't make the trade. I paid a commission to one man $25,000 for making the deal with Bob.

"Q. For Bob Reynolds' property? "A. Yes, sir. We bought it and kept it for over 10 or 15 years. We have been cutting timber and running sawmills down there. I never happened to see one of them. I have a man from Baltimore

here who runs it for me, so then he got 'way behind and he was almost—in his payments.

"Q. Desser got 'way behind in his payments, interest payments? "A. Yes, I told him we would have to foreclose, I couldn't wait any longer. So then I happened to talk to Congressman Tom Johnson one day and he said, 'I have a fellow who has all kinds of money, who is going to finance a bridge for us up there, and he told me he wanted to put out some money."

Now, reading on page 7, lines 1 through 10.

"So Congressman Johnson brought over Mr. Robinson, and then they brought over Mr. Edlin. [2014] Mr. Edlin told me—and he made a very fine appearance, he just swept us off our feet and he said that he had money running out of his ears and he had to use it and I said, 'Loan it to Mr. Desser.'

So, he agreed to, but he wanted 15 per cent and Mr. Desser couldn't pay 15 per cent, don't you see? But anyway, he went along and he bought the mortgage from Albert Ernest, but I approved everything, I had to approve everything, Mr. District Attorney."

Then on page 24, beginning at line 1:

"Q. At this stage of the game was Congressman Johnson to receive any commission or fee if he was able to find some financing? "A. No; I offered him something and I said, 'I think I ought to pay you,' because I thought he had something.

"Q. At the time when he first brought— "A. I said, 'What are you going to charge.' He said, 'Nothing.' He said, 'They have retained me as their lawyer and I can't charge both.' That is the reason I gave him a little something."

"Q. Did you ever discuss Congressman Johnson's fees with Mr. Edlin or Mr. Robinson? [2015] "A. No, sir, "—

(Mr. Williams) You omitted the next question.

(Mr. Tydings) Excuse me. I left out the three lines before the part we excerpted. Let me read back beginning on line 7.

"A. I said, 'what are you going to charge?' He said 'Nothing.' He said, 'They have retained me as their lawyer, and I can't charge both.' That is the reason I gave him a little something.

"Q. The bull? "A. It cost $1,000 and $100 to send him down. I was trying to give him something. I think he is a wonderful fellow."

Thereafter, going down to line 18.

"Q. Did you ever discuss Congressman Johnson's fees with Mr. Edlin or Mr. Robinson? "A. No, sir, I never did. Tom told me one time that he had to take—they had some travelers' checks, he had to take some travelers' checks in part payment, and they would not pay him, and the night he left to go to Europe on this investigation—and I was supposed to go, too, but didn't—he gave him, he told me $4,000 but then I had Moncure, who had passed on that title, I had another lawyer, I paid him $10,000, Wilson Maingram at Roanoke, a fabulous fellow. He represented the bonding company over here, and they bonded the land. We paid him. He worked with my lawyer. I told him Moncure will bring it down. There has been no transaction and I called Frank Moncure. He is a very old gentleman and very fine, and he said, 'I will bring it down for $100, Frank.' "

Thereafter, reading page 36, beginning at line 6.

"Q. Did Tom Johnson do any legal work specifically in the work you know for Mr. Edlin? A. Yes, sir.

"Q. What did he do? "A. He stayed there all the time. Desser stayed on top of him. Not Desser, Edlin.

"Q. Did Edlin come right to Johnson's office? "A. Yes, sir. He was going to, Tom was going to foreclose the mortgage, and Tom had been out there at this subdivision, which I was telling you about, Cassell's subdivision. He had 600

titles that he was supposed to look over and they had a terrible fuss about what they ought to cost for that, the title on the sale for each plot, and he brought in a pack about this high and told him [2017] what they would do. He had quite a round about that.

"Q. Do you know any legal work which Johnson did for Edlin? "A. He got the lawyer for Edlin. He wouldn't take my lawyers. I told Edlin to take Frank Moncure, because he knew the title and passed on it, and I told him about the fellow at Roanoke and to get this fellow on down at La Plata, where the court house was, but Tom was working on all of those things. I think he had charge.

"Q. Did Tom Johnson do any legal work for the First Colony? "A. I don't think he did. I have no idea of that. I have no idea in the world, but I don't think he did. He left that to Robinson.

"Q. Did he do any legal work for First Continental Savings and Loan? "A. Not that I know of.

"Q. Did he do any legal work for Leisure City Land Company? "A. Yes, he did.

"Q. What work did he do? "A. He hired the lawyers and had to pay him himself. That is what he told me. I didn't know these lawyers.

[2018] "Q. This is all pretty much what Johnson told you, isn't it? "A. Yes, sir.

"Q. You never saw him do the actual work? "A. I was there when he showed me this junk or stuff he had to go through.

"Q. Do you know of any legal work he did for Charles County Land Company? "A. He was handling the deal with DeSales and Mudd and he was foreclosing the mortgage and he hired some more lawyers to help him do that, and that was stopped. I imagine, but I don't know, he passed on the title.

"Q. Do you know who brought Johnson those Cassell mortgages you referred to? "A. No, sir.

"Q. Was he working for Edlin at that time? "A. Yes, sir.

"Q. And he told you that? Johnson? A. That is what Johnson told me. I was down there and I told him what a wonderful subdivision it was. I said, 'You ought to go down there and see it. It is really a fabulous place.'

"He said, 'I have to pass on all these contracts. They are all written wrong and they have to be [2019] straightened out.'

"He just mentioned that to me. Mr. Edlin didn't mention it.

"Q. There is no question that Johnson told you he was doing legal work for Edlin? A. No, sir. He was representing him. He didn't attend too many of those conferences.

"Q. He did not? A. No.

"Q. Did he attend any of them? A. I think so.

"Q. He did? A. I think he had lunch two or three times where they would talk, where we had Robinson and Tom, and we would just talk about it, and I would hear them talking.

"Q. Aside from that, those are the only conferences you know he attended? A. No, he attended some in Desser & Garfield's office, because he was representing Edlin and there when he bought that thing. He left. We stayed until four o'clock in the morning wrestling with that fellow. Tom got up and left about nine o'clock.

"Q. Congressman, did you ever send to Mr. Edlin any copies of correspondence which you may have had with [2020] governmental officials concerning— A. I may have. They were working very hard on this Jimmy Hoffa case, and he was cooperating very good, and they were anxious,

more anxious about that than anything. I might have. I don't know whether I did or not, but I could look it up and see.

"Q. If you did, why did you? A. To keep him posted about what he was supposed to go down there and see."

Now reading from page 41, beginning on line 7.

"Q. Directing your attention to the business with the Department of Justice— A. Yes, sir.

"Q. —what arrangements, who suggested that you go to the Department of Justice and what preliminary arrangements, if any, were made? A. I called Bobby. I said, 'Bobby, I have something here you might be interested in.' I have known him all his life and have known Ethel, his wonderful wife. She is greater than Bobby. I said, 'There may be a chance to look into this and do something.'

"Q. Did you discuss with Congressman Johnson this call before you made it? A. He was there in the room when I called him.

[2021] "Q. Who else was there? A. Nobody.

"Q. Before you made the call, did you discuss with Mr. Edlin or Mr. Robinson that you were going to make it? A. No, sir, but I did later. The reason I did it, Bobby wanted to see the plans, and they had some very elaborate plans, so Robinson took them down, but he didn't go with me—the plans of the city they were going to build.

"Q. You discussed with Congressman Johnson that you were going to make the call? A. He was there. He thought it was a good idea. He brought in a fellow, his assistant.

"Q. Who brought in who? A. Bobby brought in—

"Q. Miller? A. —Miller. Yes. Bobby said, 'make a memorandum of the whole thing, so I can look into it.' They were very much interested in Hoffa, more than anything in the world. That caught them on fire. So Tom

made the memorandum for him, but I never did see the memorandum.

"Q. Who made the memorandum? [2022] A. Tom.

"Q. Tom Johnson? A. Tom Johnson. Tom was with me.

"Q. Tom prepared the memorandum? A. He prepared the memorandum which I never did see.

"Q. Do you know that he prepared the memorandum? How do you know that he prepared it? A. Tom Johnson told me.

"Q. Did he tell you he delivered the memorandum to the Attorney General? A. Yes, sir. I did not go with him when he delivered it.

"Q. The first meeting, specifically what did you discuss with the Attorney General? A. I said, we have this fellow here, and he says he has been framed, and he is going to spend a tremendous amount of money down here and he says there is nothing to it, and I think it would be a good idea to look into and see. He told me this was a frameup over here, too.

"Q. You mean when you say 'over here,' Edlin told you that the indictment which had been returned by the Federal Grand Jury in Maryland against him— A. We didn't know him for a good while. When we [2023] met him that indictment was against him. We never met him until that was over. A. The indictment in Maryland on the First Colony, Edlin told you that was a frameup? A. Because the others were jeolous of his doing good.

"Q. You asked the Attorney General to do what? A. To just take a look at it. He said, 'Prepare a memorandum.'

"I said, 'I can't do it.'

So Tom prepared the memorandum which I never did see.

"Q. Actually, what did you and Congressman Johnson

expect the Attorney General to do? A. Nothing but to look into it and see whether he was framed up there, and this fellow who came down from Chicago made quite an impression on everybody.

"Q. You mean Mr. Charles Meyer? A. I don't know his name.

"Q. Edlin's former probation officer? A. Yes. That fellow made quite an impression. They kept him there all day. I took him in there.

"Q. Who asked Meyer to come to Washington? [2024] A. They did.

"Q. The Department of Justice? A. I think they told him to get him, they told Tom.

"Q. They told Congressman Johnson to get him? A. Yes, sir.

"Q. Did you hear them say that? Who told you that? A No, I didn't. I am sure that was because there was nothing—

"Q. Did Congressman Johnson tell you that? A. Yes, sir.

"Q. Who called up Mr. Meyers to bring him down here? A. I don't know. I never heard from him again.

"Q. Did you meet Mr. Meyers yourself? A. They brought him to Tom's office and I went down there and we took him down to the Attorney General's office, Tom and I.

"Q. Who brought him to Tom Johnson's office? A. I don't know. He was there. He was sitting there waiting and ready to go.

"Q. What was the purpose of taking him down to [2025] the Department of Justice? A. To show what happened in Chicago.

"Q. And what happened in Chicago? A. I never did get to see the memorandum. We were in session and I ran

down there and they turned him over to a man and kept him eight hours.

"Q. What did you and Congressman Johnson hope Mr. Meyer's visit would accomplish? A. I didn't know. He said over there was just nothing. The whole thing, he said, amounted to nothing. He said it was 1933.

"Q. You mean you hoped Mr. Meyers would state that Edlin's former record amounted to nothing? A. I didn't know; he said he would say that.

"Q. Who said he would say that, Edlin? A. Yes.

"Q. Edlin told you that, if Mr. Meyer— A. Edlin and Robinson.

"Q. Edlin and Robinson told you and Congressman Johnson that, if Meyer were brought from Chicago and would appear before the Department of Justice, Meyer would tell the people in the Department of Justice— A. —the truth.

"Q. —which was that Edlin's former crime was [2026] really nothing at all? A. I don't know what he told him. He stayed there, I believe he told them the truth. He is a good fellow.

"Q. What Edlin and Robinson told you— A. Everything was a frameup on them, here and there, too.

"Q. And if you and Congressman Johnson would get Meyer to come to the Department of Justice, Meyer would tell them that? A. We didn't get him. I asked them if they wanted him and they said they would be glad to have him.

"Q. How did he happen to come down? A. I don't know.

"Q. You talked to him before he went to the Department of Justice, didn't you? A. Tom and I went with him.

"Q. Did you tell Mr. Meyer what you wanted him to say? A. Not a thing.

"Q. Why did you go with him to the Department of Justice? A. Mr. Meyer asked us to go. He asked us. I told him we would be glad to.

[2027] "Q. Any reason? A. We only stayed five minutes.

"Q. Any reason why he wanted you to go down with him? A. I don't know what his reason was. He was an old gentleman and not a bad fellow, in my judgment."

And beginning on page 48, starting with line 14.

"Q. What was said to the Attorney General, about the case that was pending in Maryland, the indictment against Edlin and First Colony? A. I don't know. Tom talked on that. I don't know what was said. He was there when I wasn't there sometimes, don't you see?

"Q. What did Congressman Johnson hope to accomplish by talking about the case? A. I don't know. He was representing him. He is a lawyer, and he was representing his client.

"Q. Was he trying to have the case delayed? A. No, I don't think he was. I know he wasn't trying to get it dismissed. He might have wanted it delayed until they could start spending this money down there, but he certainly never said anything about it. He told them just to take [2028] it under advisement and take a look at it, and he gave them the memorandum on it and he went down and spent a whole Saturday evening, as I understand it, going over it, on the memorandum. I never saw the memorandum in my life. I am not a lawyer.

"Q. What did Mr. Edlin and Mr. Robinson hope would be accomplished by the Attorney General and the Department of Justice taking the case under advisement and studying it? A. They were trying to swap off Hoffa for that deal. I don't know, but neither one of them ever talked to Bobby Kennedy.

"Q. But they talked to you and to Congressman Johnson? A. Yes, they talked to me."

Now, beginning page 52, line 8.

"Q. What, if anything, do you know about the travelers' check that Congressman Johnson received? A. I know only what Tom told me.

"Q. What did he tell you? A. He said, 'I didn't get anything out of that fellow.'

"Q. Edlin? A. Yes. 'I can't get my fee and I have gone [2029] to all kinds of expense and time.' He had a partner working on it, and he was very mad, too.

"Q. Adelberg? A. Adelberg. I never met Adelberg. I didn't know he had a partner, and they were working on it. When he got back from Europe, I said, 'Did you get any money out of him?'

"He said, 'I got $4,000 out of him in travelers' checks.'

"I said, 'Why traveler's checks?'

"He said, 'I don't know what it was.'

"Q. Did you know that Congressman Johnson was being paid from time to time while he was representing Mr. Edlin? A. I didn't know it, but I assumed he was.

"Q. Did you know how he was being paid? A. No, sir, he never discussed that with me. I never saw one of the checks or anything.

"Q. Do you know what Congressman Johnson's fee would have been if the Sayre and Fisher deal had gone through? A. It would have been pretty good.

"Q. Would it have been 5 per cent of the total deal, approximately? [2030] A. I don't think so.

"Q. It would have been some percentage of the total? A. It would have been a good one.

"Q. He didn't get anything because it didn't work out, it didn't go through? A. He didn't get nothing.

"Q. This deal was contingent on the success of the deal? A. Right."

"Q. How did you know that Congressman Johnson would have received a good fee if the Sayre and Fisher deal had gone through? A. They said, 'Make that deal and it will be a good fee in it.' "

Now, turning to page 62, line 2.

"Q. Did Johnson do most of the talking in these visits? A. Yes, he did, because they were talking low. He wanted me to go with him when he presented one thing. I said I hadn't heard it or seen it.

"Q. Did you make any comments after the meeting, when you were back in your office with Johnson in front of Edlin and Robinson, about what [2031] a good job Johnson had done? A. I boosted him all I could. I hoped he could get a little money out of it. I imagine I did. I boosted him every way I could, because he had been up against it. That fellow worried him to death. He had to get him away from him."

Finally:

"Q. Edlin was worrying Johnson?"

(Mr. Williams) Is the last thing a question?

(The Court) The answer is "yes."

I think that is where he was going to stop.

(Mr. Tydings) The answer is "yes."

"Edlin was worrying Johnson?

"A. Yes."

The Government now calls Mr. Herbert J. Miller.

(Mr. Genn) If the Court please, I think the record shows

that this particular testimony is binding only in so far as Mr. Boykin is concerned.

(The Court) It was only offered against Mr. Boykin. That was my understanding.

Mr. Tydings said that at the very beginning and I understand that Mr. Williams was making no objection to it.

(Mr. Williams) I made no objection to the introduction of the evidence, Your Honor.

HERBERT JOHN MILLER, JR.

DIRECT EXAMINATION

By Mr. Tydings:

Q. Mr. Miller, where do you reside, sir? A. 10100 Chapel Road, Potomac, Maryland.

Q. And in what position or what capacity are you presently employed? A. I am the Assistant Attorney General of the United States in charge of the Criminal Division of the Department of Justice.

Q. How long have you been practicing law, Mr. Miller? A. I commenced the practice of law in 1949.

Q. And you were a partner in the firm of Kirkland, Dallas, Hodson, Chafitz and Masters before you were nominated as Assistant Attorney General? A. Yes.

Q. Had you served in any prior federal service prior to your nomination and confirmation as Assistant Attorney General? A. No, except for being in the Army in World War II.

Q. All right. As Assistant Attorney General of the United States, Mr. Miller, in charge of the Criminal Division of the Department of Justice, would you briefly outline your responsibilities to the ladies and gentlemen of the jury? A. The Criminal Division of the Department of Justice is given the supervisory power over all Federal Criminal

actions which are brought in the various District Courts throughout the country with certain exceptions such as criminal tax cases, criminal anti-trust cases, espionage and internal security cases and certain cases in the Civil Rights Field.

* * * * * *

[Tr. 2035-2039]

By Mr. Tydings:

Q. Excuse me, Mr. Miller. Before the interruption I believe I had asked you if you review you responsibilities as Assistant Attorney General of the United States in charge of the Criminal Division of the Department of Justice, and I would appreciate it if you would restate your answer for us. A. Well, as I stated before, the Criminal Division has supervisory jurisdiction over Federal criminal cases with the exceptions which I have heretofore outlined. There are approximately 150 lawyers in the Criminal Division. We work very closely in conjunction with the 93 United States Attorneys around the country in the various Federal cases which are brought.

Q. I am having difficulty hearing you. Would you speak a little louder or move the mike a little closer?

(The Court) Can the jury hear?

(The Witness) That, basically, is what the functions of my office are.

By Mr. Tydings:

Q. All right. Now, Mr. Miller, approximately when did you take office as Assistant Attorney General of the United States? A. The end of February or beginning of March of 1961.

Q. Now, directing your attention to the months of April, 1961 through November, 1961, did you ever have occasion to be contacted either in person or by telephone by either Congressman Johnson or Congressman Boykin about a matter then pending before the Department of Justice? A. I did.

Q. And what was the matter then pending before the Department of Justice?

(Mr. Genn) If the Court please, I am going to object to that characterization as "pending before the Department of Justice." That is a conclusion and it is a matter which was also pending in the Court and I think the characterization is improper.

(Mr. Tydings) I think the Assistant Attorney General knows what is pending before him as Assistant Attorney General.

(The Court) The legal point which you seek to make is one which the Court will have to pass on. I think I have already passed on it tentatively in the Opinion on the Motion to Dismiss. You have your point. You can raise your point at the appropriate time. Instead of saying "pending before" just say "before," Mr. Tydings, and it will not hurt your point if you make the change.

By Mr. Tydings:

Q. About a matter before you as Assistant Attorney General. A. Yes.

Q. What was that matter? A. This was an indictment pending in the District Court here in Baltimore against First Colony Savings and Loan Association, J. Kenneth Edlin and certain other defendants whose names escape me at the moment.

Q. All right, now, what did the Congressman contact you about in reference to said indictment in the period April 1961 through November, 1961? A. Well, they were in contact with me to present arguments, some economic and some legal in nature, as to why the indictment against J. Kenneth Edlin should not go forward and go to trial.

In addition to this, they did bring to my attention the fact that Mr. J. Kenneth Edlin allegedly had certain information about a stolen treasury certificate which I believe was negotiated in his favor by one Benjamin Dranow who was

allegedly an associate of James Hoffa. But the primary reasons for the visit were to present arguments in the nature of the fact that, for example, there was a colored housing development in Southern Maryland, that this housing development was being financed by J. Kenneth Edlin, or his association, that, if the case went to trial, the publicity would possibly cause a run on the savings and loan association and this would put the savings and loan institution in a position where they could not finance this very fine, as described to me, very fine housing development.

In addition to this, there were indications that it was felt by the Congressmen that the indictment was an outgrowth of what they described to me at the so-called "battle" in Maryland between the independent savings and loan associations and the Federal savings and loan associations.

Subsequently during the course of the meeting the case was discussed at length on the merits of—the various legal issues were gone into and this, of course covered a period from approximately April to November of 1961.

• • • • • •

[Tr. 2043]

Q. All right. Now, during this period, that is the period from April, 1961 through November of 1961, how many times did Congressman Johnson personally come to confer with you in your office at the Department of Justice? A. According to the records of my office, he came to my office personally to confer with me nine times, or was it eleven times? I am trying to recall.

Q. Approximately how many times? A. Approximately eleven times, it was.

Q. And during the same period how many times did Congressman Johnson, approximately how many times did Congressman Johnson come to confer with you in your office?

(The Court) That is the same question.

By Mr. Tydings:

Q. I mean Congressman Boykin, excuse me. A. I believe he and Congressman Johnson were in approximately eight times together.

Q. And the other three times of Congressman Johnson was when he was there alone? A. That is right.

* * * * * *

[Tr. 2058-2069]

By Mr. Tydings:

Now, ladies and gentlemen of the jury, I am going to read you Government's Exhibit 154, which is the original letter just identified by Mr. Miller to the Honorable Herbert J. Miller from Congressman Boykin, dated May 4, 1961.

This letter is the original of the copy which has just been offered in evidence Government's Exhibit 52-C. 52-C was originally identified by Mr. McKeever and subsequently identified by Mr. Kunkel.

Also, Government's Exhibit 90, which was identified by Mrs. Ferina, is a duplication of the attachment which is a part of Government's Exhibit 154.

I will now read this letter of May 4th, as well as all of the attachment, dated March 17th, and the attachment, as I have told you, is the same as Government's Exhibit 90, which Mrs. Ferina testified was similar to the one which she prepared in Congressman Johnson's office.

"May 4, 1961

"Honorable Herbert J. Miller
"Assistant Attorney General
"Department of Justice
"Washington 25, D. C.

"My dear Mr. Miller:

"I really enjoyed the visit of our mutual dear friend, Congressman Tom Johnson, and I had with you yester-

day, and I know we didn't hurt anybody, and I believe we can help an awful lot of people.

"I am enclosing herewith the statement that we talked about on Dranow. This statement was given to me by Tom Johnson. William L. Robinson, as you know, is Kenneth Edlin's attorney. I hope this statement will help. As I told you, I told the Attorney General about this, and he sent one of his very able men here, and I gave them this statement that I received from Mr. Kenneth Edlin some time ago, but I thought it would be good for you to have this, too. Now, as I understand it, Kenneth Edlin did pass this treasury bond for $10,000.00 on—not to himself personally, but to the people who put up the money to buy it, which I understand was a bank in Miami, I believe. However, I am not sure about this, but anyway, it was some bank, and the stockholders received the money, instead of Ken Edlin.

"Anyway, so far, nobody has lost any money on it unless it was the bank which furnished the money because they will, of course, have to make the bond good. I really think it would be a good idea for you to have a talk with Kenneth Edlin. He lives at the Woodner Apartments when he's in Washington. He's in New York now, as I understand, but I don't know his address there. I understand he will return here in the next day or two. I believe he could be very helpful on this and could give you some information that Tom Johnson and I could not. Anyway, here is the statement, and I believe it could be enlarged upon by Ken Edlin. I met Mr. Edlin through our mutual friend, Congressman Tom Johnson, who I consider one of the ablest men in the Congress of the United States. I know him well because our committee, the Merchant Marine and Fisheries Committee, made a trip for many, many long days and nights investigating the shipbuilding, the shipping and the many phases of the Merchant Marine and Fisheries Committee, and I see they

adopted the recommendations we made. Anyway, what Tom Johnson and I want is to be helpful, and I think this would be helpful, because if you could just give me some morning or afternoon, I'd like to drive you out to Waldorf and show you their spot which is larger than the City of Washington, so they tell me, with the railroad facilities, all doing nothing, and with the new Highway 301 and old 301 and hard surface roads all around and about 8,000 acres of beautiful land that belonged to the Hope Diamond people. Well, it's a great project, but if you have a gold mine or a diamond mine and don't develop it, it don't do you any good. And another thing out there is that the people are so wonderfully fine in every way, and they are just starving for some sort of development. They're about in the same shape they were when Booth assassinated Lincoln, but they are thoroughbreds, they have their pride, they have beautiful land and cattle, too. But with the present price of labor and with so many people not wanting to work, it's hard to make anything out of farming, because the price you have to pay makes what you grow cost more that what it comes to after it's all over with Ken Edlin has agreed to spend three and a half million dollars in developing this property, and that will just be a starter. Those wonderful people in and around Waldorf, Maryland, have gotten up a half million dollars to develop themselves a country club, a golf course, a hunt club and many other things, all of which Mr. Edlin has agreed to finance, but there's something that's already been done that pleases me very much, and I know it will you, too, and will please this entire administration. I wrote the Attorney General about it, and I'm going to write you, too, because I know we all have more than we can do in these troublesome times not only here but all over this world.

"I am enclosing you with this letter a brochure by A. I. Cassel Land Corporation, and Mr. Cassell is a Negro. He is an architect, and, as I understand it, he has been very successful. I never met him until last

Saturday afternoon, when Mr. Edlin and several of his associates invited me to come out and inspect the Chesapeake Heights, an outstanding international community. Now, please take a look at this brochure, and it could be the answer to so many of our problems. They have selected some of the most beautiful pieces of property on the Chesapeake Bay that I've ever seen, and they have spent a tremendous amount of money on it. Every bit of it is furnished by my friend, Kenneth Edlin. It's a revelation, and I think everybody would like it and ought to see it, because they are not hurting anybody, but are really and truly helping, and they'll have a place there where our Negroes in Washington can go if they can come up to the specifications which Cassell has for them to meet. Their waterworks system is one of the finest and most up-to-date I've ever seen. They've made a barren piece of land with scrub trees and broken down old shacks into a very, very beautiful site overlooking the bay, with high bluffs and with a beautiful clubhouse and just everything that you and I have in our homes and everywhere else." . . .

"In my judgment, he will complete his sales by Labor Day. He wants to put in a Marina, because many of our colored people have boats. Mr. Edlin has agreed to finance that, too. Anyway, the only way to properly appreciate this beautiful property is to go out there and see it. He said that the Good Lord and Mr. Ken Edlin had been awful good to him. Now, this man has been working on something like this all his life and is getting to be an old man, now, and his dream is coming true. He's very, very determined. I understand he's been offered $500,000.00 cash for his interest in this development, but I don't think he'd take anything in the world because all of his years have been put in trying to do this, none of which he could have done had it not been for Ken Edlin. Please do take a few minutes out and read this brochure and if you could get a little time, let's run out and let me show you this. I've been in the real estate business since 1904. As a matter of

fact, I guess we've sold more land than most anybody. We had in the Florida boom a million and a half acres, and we have an awful lot of land now. We have about five developments going on in our beloved Southland now, but none better than this wonderful man, Cassell, is putting on right out in Prince Frederick, Maryland.

"I wrote the Attorney General, Bob Kennedy, about this when I found it, the afternoon I returned from there. Do let's try and see it.

"I enjoyed seeing you, and I want you to come up and have lunch with me just any time and bring anybody you can and let me know if I can help.

"I had the joy and pleasure of handling President Kennedy's program in old city of Mobile, Alabama, which is not an old city, but a brand new one, now. We have over 200,000 people there on Mobile Bay that looks very much like this development out there in Maryland. Anyway, Ike carried Mobile, Montgomery and Birmingham both times he ran, and we lost Montgomery, the Capitol of the Confederacy, and we lost Birmingham, but thank the Good Lord, with the help of all of those fine people in Mobile, we gave President Kennedy a beautiful and wonderful majority that put Alabama on top and in the Kennedy column.

"This Kennedy clan is really a great group. I've known his famous father, Ambassador Joe Kennedy, for many, many long years, and in my judgment, Joe Kennedy is one of the outstanding and great and good men of this nation, and not only President Kennedy, but the Attorney General both are just chips off the old block. I know that in your case, he's selected a wonderful, fine man that will do an outstanding job.

"With every good wish, I am

"Sincerely yours,

"Frank W. Boykin, M.C."

This is a memorandum dated March 17, 1961, and has written across the top in longhand "Hon. Herbert S. Miller," and it is signed on the back "William L. Robinson."

"MEMORANDUM:

"A Mr. Ben Dranow called, during the summer of 1959, at the First Continental Mortgage Company in Miami, Florida, to discuss financing of the Sun Valley Project. Subsequent meetings were held at the office of the Koven Construction Company in Miami Beach, Florida. At these meetings Mr. Dranow represented that he and his associates, James Hoffa, Koven as the contractor, and other parties, were desperate to obtain immediate financing of the Sun Valley Project. It seems they desired to purchase the property from the receivership and that $100,000 was necessary to be deposited with the trustee in an escrow arrangement.

"Mr. Dranow was advised by the representative of the financing institution that they could not make unsecured loans and that escrow was out of the question. Mr. Dranow then was to give a mortgage on the office building known as the Fashion Mart Building which he allegedly owned and controlled with Mr. Hoffa and others. But, in a discussion it became apparent that the property was already encumbered and that this security would not be satisfactory.

"Mr. Dranow next requested a loan in the amount of $80,000, stating that he could raise the balance of the $100,000, and offered as security a U.S. Government Treasury Note. He was then advised that the lending institution could make loans only on real estate and not one secured by Treasury Note. At this point, negotiations ended with the understanding that there would be further discussion if Mr. Dranow could provide adequate security.

"Later, Mr. Dranow telephoned the office of First Continental Mortgage Company and represented that

he had found a source of adequate financing and did not desire to sell the Treasury Note. Subsequent to this telephone call, Mr. Dranow again contacted a representative of the mortgage company advising that the financing he thought he had arranged had not materialized and asked that the bond be purchased for the sum of $80,000.

"Mr. Goldman of the Mortgage Company arranged the transaction and Mr. Dranow sent the Treasury Note with two individuals to the banking institution to receive the funds. Two individuals appeared at the office of First Continental Mortgage Company in Miami and present at the time were Jackson D. Rains, Mr. Goldman, Mrs. Pearl Edlin, Mrs. Sadie Goldman, and the two individuals. This was in the later part of June, 1960. After Mr. Rains examined the Treasury Note, he stated that in his opinion it was a good note but the two individuals could not satisfy Mr. Goldman as to their identification. The transaction therefore did not take place.

"It may be noted that the two representatives stated that they were from the Teamsters Union and had been sent to the office by Mr. Ben Dranow. They left, stating they would be back the next morning with proper identification. The next morning, Mr. Dranow personally appeared at the mortgage company at which time the exchange was made wherein Mr. Dranow requested that a check for $80,000 be made payable to a Mr. L. Aleman. Mr. Goldman immediately sent the Treasury Note, air mail, special delivery, registered mail, to the purchasing corporation—First Continental Savings and Loan, Inc., of Chevy Chase, Maryland. Upon receipt, the bond was immediately deposited with the Bethesda National Bank for collection.

"Subsequent to the closing of the transaction, Mr. Dranow continued on behalf of himself and his partners to seek additional financing for Sun Valley, and offered as security mortgages on two shopping centers and the

Fashion Mart Building. Mr. Goldman checked the statement provided which disclosed that the anticipated income of the shopping centers was not sufficient to provide for repayment of the loan. The Fashion Mart Building was found to be in need of extensive renovation and the security was insufficient to substantiate the loan in question. The properties, therefore, were rejected.

"On March 6, 1961, the First Continental Savings and Loan Corporation of Chevy Chase, Maryland was advised by the law firm of Kardy and Brannan of Silver Spring, Maryland that the treasury note in question was owned by a Jules Marcus, and demand was made for either return of the note or the face value of same.

"William L. Robinson."

Finally, the letter of May 13th, which was identified originally by Mr. McKeever, the conservator of First Continental Savings and Loan Association. This is a letter on the official Department of Justice stationery, to the Honorable Frank W. Boykin, signed Herbert J. Miller, Jr.

"Dear Congressman:

"Thank you very much for your kind letter. I enjoyed very much talking with you and Congressman Johnson.

"I understand Congressman Johnson will be in contact with me in the near future.

"With best regards."

Then on the top you can see "Send Kenneth Edlin, F.W.B."

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[Tr. 2070-2117]

Q. Mr. Miller, I think we will proceed along the lines that the Judge suggested earlier this morning, and I direct your attention to the date April 14 and you may use the Government exhibit which you have in your lap. Were any appoint-

ments made with you on April 14 or with your office in connection with Congressman Johnson of Maryland? A. According to my records, Congressman Johnson called for an appointment on April 14.

Q. Was an appointment set? A. It was set for April 17 at 10 o'clock.

Q. Did you see Congressman Johnson on April 17 at 10 o'clock? A. Yes.

Let me make it clear, Mr. Tydings. I can not recall these specific dates. There are so many visits, so many telephone calls, I must rely necessarily on the record which was kept by my secretary.

Q. We understand that. You have no independent recollection of each specific date. You are relying on the record kept by your secretary? A. That is right.

Q. All right.

Now, directing your attention to April 27, do the records indicate any contact on that date? A. Yes, they indicate that Congressman Johnson's office wants an appointment for Congressman Johnson and Congressman Boykin.

Q. Was such an appointment made? A. On May 3 at 10:12, Congressman Johnson and Congressman Boykin were in to see me regarding the First Colony Savings in Maryland.

Q. Two days later on May 5 were there any contacts made? A. Congressman Johnson called my office at 10:25 in the morning, but I did not return the call.

Q. All right.

Now, on May 6, the following day, were any contacts made? A. I returned Congressman Johnson's call of the preceding day and there was no answer.

Q. Now, directing your attention to May 22, did Congressmany Johnson and Boykin visit you on May 22? A. Ac-

cording to my records, they saw me at 11 o'clock in the morning on May 22. 11:10 actually.

Q. Did you make a telephone call later on that same day? A. Yes, at 2:45 the record shows I called Congressman Johnson. "Did not reach him. Left word" and then finally talked with him at 2:50 in the afternoon."

Q. The following day, May 23, do the records indicate any contacts from either Congressman Johnson or Boykin? A. The records show Congressman Boykin called me at 2:25 and we talked.

Q. Directing your attention to June 5, did you receive any—

(Mr. Doub) Could I interrupt just a minute?

Could you ask him whether this means the Congressman Boykin called him or whether it means his office, or secretary called him.

(The Witness) I would have no knowledge whether it was the Congressman or the secretary because, of course, I did not take the call.

(The Court) Didn't the secretary testify, Mr. Doub, that the "T" meant, on May 23 that there was a telephone call put through to Mr. Miller?

(Mr. Tydings) That is correct and that they actually talked.

(Mr. Doub) I think she did, Your Honor.

(Mr. Tydings) That is right.

By Mr. Tydings:

Q. On June 5, now, do your records show there were any contacts by either Congressman Johnson or Congressman Boykin? A. Yes, the records show that Congressman Boykin called my office at 4:25 and left word, requesting that I call.

Q. And the following day on June 6 did you return Con-

gressman Boykin's call? A. Yes, at 9:23 I called Congressman Boykin but was apparently unable to reach him.

Q. Now, the following day on June 7, were any calls made, put through to you by either Congressman? A. Yes, the records indicate that at 11:14 Congressman Boykin called. We did not talk.

He called again at 1:35, saying he would call back and we talked at 6:50 in the evening.

Q. All right. Now, the day after that on June 8? A. On June 8 Congressman Boykin called at 10:43. I did not return the call.

Q. All right. Two day later on June 10. A. Congressman Boykin called at 10:35 and we talked.

Q. All right.

Two days after that on June 12 were there any contacts made? A. Yes, Congressman Boykin and Congressman Johnson were in to visit me at 11:30.

Q. All right, the day after that on June 13, were any contacts made? A. Congressman Boykin called at 10:05. I did not return the call.

Q. And the day after that. June 14, were any contacts made? A. Call was made at 1:15 requesting an appointment to see Congressman Johnson. This was set for the next day.

Q. Who called whom on that? A. Congressman Johnson called my office, or his secretary called my office for an appointment.

Q. Was an appointment set up? A. Yes, for the following day.

Q. And the following day, June 15? A. 10:15 Congressman Johnson and Congressman Boykin were in to visit me.

Q. And four days later, June 19 were any contacts made with your office? A. Yes, Congressman Boykin called, or I called him at 9:20 and we talked.

At 10:45 Congressman Boykin called me, left word he would call back after lunch.

At 1:55 o'clock Congressman Boykin called, said he was waiting at the Airport for H. J. Miller's call. We did not talk.

Q. The day after that, the next day on June 20. A. Congressman Boykin called at 11:11 and left word to call.

I did not return the call.

Q. Two days later on June 22 were any contacts made? A. Congressman Boykin called at 10:45 and again at 10:55.

Neither calls did I return.

Q. June 23, the following day were any contacts made? A. Congressman Boykin called at 3:43 and we talked.

Q. All right. Three days later on June 26, was your office contacted? A. At 10:30 someone from Congressman Johnson's office called and asked for an appointment to see me, the following day.

Q. Was such an appointment made? A. Yes, on June 27 at 11:07, Congressmen Boykin and Johnson came in to visit me.

Q. Do your records show how long they stayed? A. It shows they came in a 11:07 and left at 11:54.

Q. All right.

Directing your attention to July 5, was your office contacted? A. Congressman Boykin called at 9:50 and left word to call. I did not talk to him.

Q. All right. July 14, do your records show that any contact was made? A. Congressman Johnson at 12:03. I did not return the call.

Q. July 28 were any contacts made? A. Congressman Johnson called at 9:30 and left a message that he would call back Saturday or Monday. I did not talk to him.

Q. August 1, were any contacts made? A. 10:35 in the morning Congressman Johnson called and we talked.

Q. On August 4, did you talk to Congressman Johnson on August 4? A. I called either the Congressman at 10:24 or his office to postpone an 11 o'clock appointment that I had with him.

Q. August 7, did you have any visitors on August 7? A. Congressman Johnson was in to see me at 10:07 in the morning.

Q. All right.

August 24 were any contacts made with your office? A. Yes, at 11:33 Mr. Lucas from Congressman Boykin's office called. I did not call him back.

(The Court) Isn't that the one on which there was testimony?

(The Witness) I would exclude that.

By Mr. Tydings:

Q. That was the one which had nothing to do with the Edlin case? A. Yes.

Q. Another matter entirely? A. Yes.

Q. Did you receive any other contacts on August 24? A. Yes, Congressman Boykin called at 2:35 and we talked.

At 5:28 Congressman Johnson was in to visit me.

Q. All right. August 31, were any contacts made with you? A. Congressman Boykin called at 2:15 and we talked.

Q. On September 8 were any contacts made? A. Yes, at 10:20 Congressman Boykin called. Called again at 12 and finally we talked at 12:08.

Q. All right, the following day were any contacts made? A. 10:07, a call from Congressman Boykin was referred to my office from the attorney general's office and we talked at 10:16.

Q. Three days later on Sept. 13 were any contacts made? A. At 3:33 Mrs. Kiernan in Congressman Johnson's office called for an appointment either Wednesday or Thursday.

Q. Right. The next day, September 13, did your office call? A. My secretary called Mrs. Kiernan in Congressman Johnson's office to set an appointment for the following day.

Q. And the following day, September 14, did you keep that appointment? A. Yes. Congressman Johnson and Boykin were in and they were in from ten o'clock to 11:25 Subsequently that day at 2:40 in the afternoon Miss Smith delivered an envelope from Congressman Boykin's office. Actually it was a 2:47.

Q. 2:45 in the afternoon? A. Yes.

Q. All right. The following day on September 15, did you talk to Congressman Johnson? A. At 9:36 in the morning I called Congressman Johnson and we talked.

Q. And the following day on September 16 were any contacts made with your office? A. Yes, Congressman Boykin called and left word to please contact him in Congressman Johnson's office, and I talked with him at 10:23.

Q. Three day later on September 19 were any contacts made with your office? A. Congressman Boykin called at 5:45 from the Democratic Cloak-room of the Speaker's office. I did not call him back.

Q. On Sept. 20, were any contacts made? A. At 10:13 Congressman Boykin called and left word to please call back. I did not call him back.

Q. The next day, September 21, were any contacts made? A. At 10:15 Congressman Boykin and Congressman Johnson were in to see me.

Q. Directing your attention to October 10 were any contacts made with your office? A. Yes, Congressman Johnson called at 11:55, and we ultimately talked at 12:12.

Q. All right. Two days later were any contacts made with your office? A. Yes, Congressmany Boykin called from New York at 10:10.

He called back again at 11:05 and called back apparently at 4:30.

The records show that we talked at 4:35 or 4:34.

Q. Four days later, on October 16 were any contacts made with your office? A. Yes. Congressman Boykin's office called and said he and Johnson wanted an appointment at 5 o'clock.

Q. Did they come in that same day, Oct. 16? A. At 5:30 that day Congressman Johnson and Congressman Boykin came in.

Q. All right, two days later on October 18, were you contacted or was your office contacted? A. Yes, Congressman Boykin called at 10:35 and said it was very important and asked me to please call.

We talked at 3 o'clock in the afternoon. At 3:45 he called again and we talked at 4:07 that afternoon.

Q. All right.

Two days later on October 20 were any contacts made with you or your office? A. At 3:30 in the afternoon Congressman Boykin called.

He called again at 3:40. Left word that he was leaving home. Please call at his office.

He was leaving for Jacksonville at 4:35 and wanted a "report from H. J. M. before he went."

I talked to him at 4 o'clock.

Q. October 23, three days later, were any contacts made with your office or with you? A. Yes, Congressman Johnson apparently called at 4:37. Again at 5:03 and we talked at 5:07.

Q. Two day later on October 25 were any contacts made with you or your office? A. Congressman Boykin called at 12:33 and 4:02.

He was calling from Mobile, Alabama. We talked at 4:13.

Q. All right, and again on October 30 were any contacts made with you or your office? A. Congressman Boykin called me at 3:53 and we talked.

Q. On November 21, were any contacts made with you or your office? A. Yes, at 10:35 Congressman Boykin called and left a telephone number in Mobile, Alabama. He called again at 4:35—4:38 and ultimately I returned his call at 5 o'clock in the afternoon.

(Mr. Doub) Mr. Tydings, there are other calls here.

(Mr. Tydings) We were not going to read them all but since you bring them up, we perhaps had better do it.

By Mr. Tydings:

Q. Directing your attention to December 11, 1961, were any contacts made on that day? A. Yes. At 12:40 Congressman Boykin called from Mobile, Alabama. I did not return the call.

Q. And on December 12 were any contacts made? A. On December 12 Congressman Boykin called me at the office at 5 o'clock. I returned the call at 5:22 but the calling number was out of order so we did not talk.

Q. Now, Mr. Miller—

(Mr. Doub) You have there two more.

(Mr. Tydings) They do not deal with this matter.

(Mr. Doub) You put them in evidence; now read them to the jury.

(Mr. Tydings) Mr. Doub, you can put anything you want in your case but we are concerned with those telephone calls and contacts made in connection with the dismissal of Edlin's indictment.

By Mr. Tydings:

Q. Now, Mr. Miller, directing your attention to the early spring or the spring and summer of 1961, you have read or testified to the jury about a number of visits including a visit on May 3, by Congressman Johnson and Congressman Boykin. To the best of your recollection what was stated to you by the Congressmen in these early visits in question—well, in these early visits, period? A. I would like to get something clear and that is that I do not have an independent recollection of everything that was said in the course of each of these telephone calls and each of these meetings. I can tell you the gist and substance of what went on but I cannot give you a verbatim account of who said what.

Q. What is, the best of your recollection, the substance of what was stated to you by the two Congressmen in their visits in the early summer and late spring of 1961?

(Mr. Doub) Which one?

By Mr. Tydings:

Q. Both Congressmen Boykin and Johnson.

The meetings in the spring and early summer, April 17 when Congressman Johnson was in and then May 3 when Congressman Johnson and Congressman Boykin were both in? A. Under the best of my recollection the following points were discussed. The Congressmen came in and there was a discussion, much of the discussion centered around this housing development in Southern Maryland.

I am pretty sure they referred to it as Boykin City. Then also they referred to a housing development by the name of the Cassell Development.

They discussed the fact, particularly Congressman Boykin, who apparently had been there, discussed the fact that this was a very wonderful development. He, apparently, had personally been to see it. That it was going to be a development which would be open to members of the

colored race, and that no such development was available in Maryland and, to his knowledge any way, and that J. Kenneth Edlin and/or his savings and loan association, I do not know which, were going to finance this housing development and that it would be a severe loss to the community if the financing did not go through. And, if there was ever going to be a trial of J. Kenneth Edlin, the publicity would be such that there would be a run on the, potentially a run on the accounts of the savings and loan association and then financing would just be impossible to make to this housing development.

Now, also, Congressman Johnson discussed either during this meeting, or, I am sure it was this meeting, but it ran all through the various meetings, the fact that there had been trouble over in Maryland between what he called the "independent" savings and loan associations and the "Federal" savings and loan associations.

The implication, if not the accusation was left that this indictment of J. Kenneth Edlin was either caused by disgruntled employees of Edlin or was in fact an outgrowth of animosity that existed between these two groups of savings and loan associations.

Some time along in this period, I do not recall if it was this meeting or one of the other meetings, passing mention was made of the fact that there was trouble with the FHA. They would not give Edlin or somebody a commitment. I did not pay any attention to it. I could not make any further details out of it.

Q. Did Congressman Johnson comment to you about any economic repercussions if the case went to trial, the Edlin case? A. Well, there was discussion of what a great thing this development that we were talking about would be for the economy of Southern Maryland.

Congressman Johnson pointed out that—I think he said that his district was a depressed labor area and development of this type would be a tremendous economic boon for the people in his district, his constituents.

Q. Now, when was the first time you learned that neither of these housing developments was located in Congressman Johnson's district? A. About two months ago.

Q. And did Congressman Boykin comment to you anything about Mr. Edlin in these initial visits? A. Well, throughout this period of time Edlin was referred to as a very fine, upstanding man; one who was a veritable genius in real estate dealings and one who could do a tremendous job when it came to setting up housing developments and a man who was willing to spend tremendous sums of money to further these housing developments.

Q. Directing your attention to the May 3rd meeting, Mr. Miller, did Congressman Boykin at the close of that meeting make any reference or suggestion to you about the possibility of a trade in connection with Mr. Edlin's cooperation on the Florida investigation, his Florida investigation?

(Mr. Doub) Object to the form of that question.

By Mr. Tydings:

Q. Did anything unusual happen as you recall on May 3 at the end of the meeting? A. I do not recall any trade, Mr. Tydings. Right at the end of the conversation—the reason I can place it at this particular meeting—frankly, is because Congressman Boykin wrote me a letter the next day. He brought out—I think I mentioned at the meeting, there might be a problem with Edlin because of the one hundred thousand dollar treasury certificate which at that time the Department had been investigating. It had been stolen, sometime before, and had shown up in Miami and ultimately was deposited at the bank outside of Washington, D. C. And indications were that Edlin had in fact received that $100,000 certificate. As I recall, I mentioned this to Congressman Boykin, of course Congressman Johnson was there, and he said, well, that man can help you with Jimmy Hoffa.

And he indicated as if he were trying to hold a carrot out in front of my nose, and he said "No, I have a memorandum I am going to send you."

The next day he sent this letter and wrote this memorandum which you have read to the jury. This is the same memorandum which had been supplied to the Attorney General through one of his assistants some time earlier and I had not seen but that is my knowledge of it.

Q. All right. Subsequent to this May 3rd meeting and after your receipt of the memorandum in Congress—attached to Congressman Boykin's letter of May 4, was Mr. Edlin interviewed in connection with the treasury note and the facts which have been set forth? A. Yes, the two Congressmen came in and that probably would be the meeting of May 22 because I believe it was that afternoon that Edlin was interviewed by one or two attorneys in my division.

Q. Now, directing your attention to the month of June, do you recall a visit by Congressman Johnson and Congressman Boykin when you had advised them that you had been advised that Mr. Edlin had a prior record? A. Yes, I recall, I got the report of the post office inspector before they called at my office and was going to read it or did read the file to find out what the case was about and I stumbled on a statement in there that J. Kenneth Edlin had had difficulties on more than one occasion.

The file related that he had been—

Q. Tell the jury what you told the Congressmen about that. A. So at the time when the Congressmen came in, related to them the fact—in fact, I thing I let them read the excerpt of the report which told them in this report that J. Kenneth Edlin had been convicted of either mail fraud or violation of the Securities and Exchange Act in 1941 and that he had also been convicted in the late thirties and that he had been associated with a savings and loan association out in the midwest some place which I think had been placed in receivership. So that—

(Mr. Genn) The same objection, Your Honor, previously stated.

(The Court) Overruled.

(The Witness) So, I told the Congressmen in effect, that I did not think that Mr. Edlin was the type of individual which deserved any sympathetic consideration by the Department of Justice.

They were surprised, expressed surprise and said they were sure that the records were wrong and that they were going to talk either, I guess to Mr. Edlin about it and let me know what they found out.

Q. All right.

Now, three days later did you have an unusual meeting in your office, an unusual series of events that would be June 15? A. Yes, June 15, the two Congressmen came in and had a third individual with them. To my great surprise they introduced him as a Mr. Meyer from the Probation Department out in Chicago, Illinois and they had brought him to tell me that the Department files were incorrect. At least as to the first conviction I mentioned. And that Mr. Edlin's involvement—

(Mr. Doub) Just a minute, Mr. Miller. Are you testifying to what they said to you?

(Mr. Tydings) Yes.

(The Witness) Yes, sir.

(Mr. Doub) All right.

(The Witness) Mr. Doub, this is, to the best of my recollection and understanding—and under no circumstances am I trying to give you the accurate word-by-word account of what was said—I can only give you the substance of what went on because there were so many meetings I could not possibly remember all of them. He was going to tell me about the savings and loan situation that Edlin was involved in out in the Midwest and I told him "Well, frankly, I do not have time to sit and interview you. I will arrange to have one of my attorneys talk to you" and I called one of my lawyers and Mr. Meyer was then taken down and interviewed by him.

By Mr. Tydings:

Q. Directing your attention to the end of August of 1961, did you have a meeting towards the end of August with either of the Congressmen which stands out in your mind or which was a little out of the ordinary? A. Well, I had a meeting at the end of August, about August 24 at 5:28, that is the one, that was the meeting I had with Congressman Johnson. It was a rather lengthy meeting. I imagine the meeting ran from 2 to 2-1/2 hours. I had talked to the Cangressman before this meeting. I do not recall when it was. I offered to go over with him the legal issues which were a part of the mail fraud indictment against J. Kenneth Edlin or in Baltimore. And before he came in I got the Department of Justice file and actually studied the case. When he came in, we spent, it must have been at least two hours, going over point by point the various points of the indictment in the case of J. Kenneth Edlin.

I can remember we discussed the issue of whether or not the utilization of the phrase "current dividend" in the savings and loan advertisements was misleading in view of the fact they had declared dividends at a time when there were no depositors. I think First Continental was the only stockholder and they declared a dividend.

Q. Is that the First Continental Mortgage Corporation? A. I believe so. I do not know. First Continental, the one down in Florida. They had declared a dividend when First Continental was the sole stockholder and, I am not sure, I think the dividend was in fact—

(Mr. Genn) If Your Honor please, Your Honor has instructed the jury—This man is going far beyond the particular matters involved in this case. You have instructed the jury previously that the savings and loan matters have nothing whatsoever to do with this case.

(The Court) Mr. Genn, this is an alleged overt act in furtherance of the alleged conspiracy. Your objection is overruled.

Visit by Mr. Johnson to Mr. Miller is an alleged overt act in pursuance of the alleged conspiracy. It is admissible.

By Mr. Tydings:

Q. Mr. Miller, before you go on, how much time did you spend getting ready or reviewing the files in preparation for Congressman Johnson's visit, just approximately? A. Oh, I would assume from the size of that file, it probably had taken me around four hours, maybe five or six.

Q. Forgive the interruption. Go ahead with your testimony. What took place at this meeting? A. Another issue we discussed at the meeting was there was a check transaction between First Colony and this fellow Cassell that had this housing development that had been discussed before and what had happened there was a loan by First Colony to the Cassell development of I think $400,000-some odd and as a part of this, Cassell was supposed to repay some $300,000 of it, I think, $150,000 immediately and another $150,000 shortly.

Q. Repay it as what? A. To the First Colony.

Q. Repay it as what? A. As a commission. Now, at the time those checks were—at the time one of the $150,000 checks was drawn—which went to the Cassell Development from First Colony according to the check book of First Colony Savings and Loan, there were insufficient funds to honor the check for $150,000. Mr. Cassell had a very small amount in his checking account. Nowhere near enough to honor the $150,000 check that he wrote and gave back, I believe it was, by return mail. So, I told the Congressmen that, as far as I was concerned, to all intents and purposes, this was nothing but a wash transaction between First Colony and Cassell and that it was done obviously for the purpose of creating income to First Colony. Now, the reason that was the problem, First Colony had been losing money and they had had problems in that they were declaring dividends not out of

profits but what they had to do was they had to capitalize expenses and then turn around and declare dividends out of deposits that had been made with First Colony Savings and Loan rather than actually making a profit and then paying out their dividends from the profit.

We discussed each of these points. I think the Congressmen agreed that it was a very complete discussion and I told them at the time the meeting was over with that I was convinced now that it was a good case and that I did not see any choice but what the department would have to go ahead and prosecute.

During the conversation, Congressman Johnson would point out in effect what the defense would be by J. Kenneth Edlin in the event the case did go to trial. I will see if I can remember anything else about that meeting.

One other thing, I remember distinctly because I know I wrote a letter to him afterward. He made the point which was not a bad one. He made the point that none of the depositors of First Colony had at that time suffered any loss. Therefore, no one had really been damaged. Therefore, why proceed with the case?

I told him it was my understanding of the law that even though there was no damage, if there were in fact a fraud committed, that would justify us continuing with the prosecution.

I subsequently wrote him a letter and cited him a case to that effect.

Q. Did Congressman Johnson make any comments about whether or not anything was actually illegal or not, any of the activities of Mr. Edlin and the First Colony? A. No, I think his position was that most of these actions by First Colony, like the advertising and the like might be improper, might be close to the line but were not in fact a violation of any of the mail fraud statutes.

Q. All right, now subsequent to this August 24 meeting were you ever given any photostatic copies of bank state-

ments of First Continental, rather of the First Colony Savings and Loan Association in connection with this $150,000 wash check transaction? A. As I recall, and there is a letter in the file some place on this—Congressman Johnson wrote me a letter and I think he enclosed a copy of the bank statement of First Colony Bank account which purported to show that os of the date of this $150,000 check, there was sufficient funds on hand in the bank to honor the check, even though the check book showed they would have been substantially overdrawn if that $150,000 check had actually gone through.

Q. Had the conflict between the check book and the bank statement been discussed in the meeting of August 24, between you and the Congressman, Congressman Johnson, if you recall? A. Well, in view of the fact that he sent me the document, I would assume so.

Q. Now directing your attention to the fall months following the August 24th meeting, were you contacted any further about this matter of the Edlin indictment by either Congressman Johnson or Congressman Boykin or both? A. After this meeting?

Q. Yes. A. Oh, yes.

Q. Did they make any new suggestions to you as to any course of conduct in connection with the Edlin prosecution or indictment? A. Well, somewhere along about this time. I cannot pinpoint it exactly, I remember I had a call from the Attorney General. He wanted a memorandum on the case. I sent it up to him. Sent a memorandum up to him and then the suggestion was made, by—well, now, I am quite sure by Congressman Johnson, would there be any problem in having someone undertake an independent review of the case against J. Kenneth Edlin.

Q. Other than you, you mean? After the Aug. 2 meeting? A. This is after the August 24th meeting.

Q. What steps if any, did you take? A. My recollection is I agreed to do it. I called you and it was decided

that the First Assistant in your office here would make an independent review of the case and send a report on the case to me.

Q. And was such an independent review made? A. Such an independent review was made and there was subsequently a meeting in October, October 20, I think it was, when your first assistant, Mr. John Hargrove, Mr. Robinson, Mr. Kossack, who is the head of the fraud section of the Criminal Division, Mr. J. C. Anderson who was an attorney practicing law here in Baltimore, I understand, came in and we had about a two-hour meeting again going over the merits of the mail fraud case against J. Kenneth Edlin and at the conclusion of the meeting I sent a note to the Attorney General that we all agreed we should go ahead with the case and that was the consensus of the representatives of the Department that were present at the meeting.

Q. All right, now, during the period in the fall of 1961, while you were being contacted, was the Attorney General, Mr. Kennedy, being contacted in this period by either Congressman Johnson or Boykin to your knowledge?

(Mr. Williams) How does he know?

(The Witness) I assume the record would show that, Mr. Tydings.

(The Court) Isn't that secondary evidence of that? The Attorney General testified.

(Mr. Tydings) All right.

By Mr. Tydings:

Q. During the fall period did you supply any memorandums on the case which you prepared, did you supply any such memorandum to the Attorney General, Mr. Kennedy? A. Yes, it was right shortly after the meeting I had. The evening meeting I had with Congressman Johnson, I received a request from the Attorney General for a memorandum on the First Colony case. It was about the

first week in September, I had one prepared and sent up to him.

Q. All right, now, during the period — the fall of 1961, was any offer ever made to you by either of the Congressmen to consider the possibility of having the First Colony Savings and Loan Association plead guilty and have the case against Mr. Edlin and the other defendants dismissed? A. Well, there was discussion. I cannot pinpoint when it was. But there was discussion of the possibility of Edlin either pleading nolo contendere or of Edlin—the case being dropped against Edlin and the corporation plead guilty and be fined.

I remember we discussed that but the problem with the latter that I had aside from Edlin, was the fact that depositors of the Corporation would then bear a fine that would be imposed upon the corporation which I did not think was fair.

Q. Do you recall who was present at that meeting to the best of your knowledge and recollection? A. Mr. Tydings, I really cannot. I would like to but this—I am sure I discussed it with Congressman Johnson but whether Congressman Boykin was there or not, I just could not say.

Q. All right, now, directing your attention to the fall of 1961, particularly towards the late fall, was there any noticeable change in tactics or request being made to you by Congressman Johnson and Congressman Boykin in connection with the indictment? A. This is in the fall?

Q. Yes, particularly November of 1961.

(Mr. Doub) Is this November, 1961?

(Mr. Tydings) Yes, November.

(Mr. Doub) Mr. Johnson left the country October 24.

(The Court) Do you want, Mr. Tydings, to lead him enough to tell him what he wants? The subject he wants him to talk about having Mr. Tydings trying to avoid

leading him but I think he can at least tell him what the subject is.

By Mr. Tydings:

Q. Did there come a time instead of a request for a consideration of an actual dismissal of the case against Mr. Edlin the suggestion was made for delay or postponement of the case, Mr. Miller? A. Yes, it was towards the end. This, as I recall, was Congressman Boykin who suggested that a delay in the trial of Mr. Edlin would be helpful. And this would probably have been in the November area. I do not recall that we were discussing this with Congressman Johnson.

(Mr. Tydings) May I have this marked, please?

(The Clerk) For identification?

(Mr. Tydings) Yes.

(The Clerk) Government exhibit 155 marked for identification.

(Government exhibit 155 marked for identification.)

Q. Mr. Miller, I show you Government's Exhibit 155 for identification and ask you if you would take a look at it and whether or not you can identify it? A. Yes, this is a copy of a letter that Congressman Boykin wrote the Attorney General. This is a copy delivered or he had delivered to me.

Q. Is that a letter which you received as Assistant Attorney General in the ordinary course of business of your office at the Department of Justice? A. Yes.

(Mr. Williams) From whom?

(The Witness) I don't know from whom. I assume it ended up on my desk like my other mail does. I have no knowledge of who actually delivered it, whether the postman delivered it.

By Mr. Tydings:

Q. Is there any writing on the top of that letter? A. Yes, there is.

Q. Is there a signature actually on the photostat? A. Yes, sir.

Q. Whose signature is that? A. It purports to be Frank W. Boykin.

(Mr. Doub) What is the date on it?

(Mr. Tydings) November 6, 1961.

It was marked for identification two days ago.

(Mr. Williams) Your Honor, this appears to be precisely the same letter the Attorney General identified as Government's Exhibit 122 the other day when he was here. Now, as I understand it, this is a copy of the letter. I have no objection to it going in, but I see no reason for it going in twice.

(The Court) It was simply marked for identification.

(Mr. Tydings) I am going to ask that they both be marked. One was sent to the Attorney General and one to the Assistant Attorney General.

(The Court) It need not be read twice.

(Mr. Tydings) Certainly not.

(Mr. Williams) By whom was it sent? That is the question. Did it come in the mail, or was it sent down from the Attorney General, is the question.

(Mr. Tydings) This was a personal copy received by Mr. Miller.

(Mr. Robinson) Mr. Miller didn't say so.

(The Court) He said it came to his desk and he doesn't know how it got on his desk.

(Mr. Williams) I think that is what is important here, Your Honor.

(Mr. Tydings) If Your Honor please, as Mr. Williams can see this is a photostatic copy of the letter which went to the Attorney General. However, it is handwritten in ink, and Mr. Williams knows the signature and handwriting on the photostatic copy of the letter, which would indicate that it is not a photostat of the letter which the Attorney General received as such, but rather a photostat of an original letter, and this copy was actually signed by Congressman Boykin and sent along to Mr. Miller at the same time the original letter was delivered to the Attorney General.

(Mr. Williams) It is the same letter.

(Mr. Tydings) That is right.

(Mr. Williams) Is there any difference in the letter?

(Mr. Tydings) No difference.

The Government would like to have Government's Exhibit 122 and 155 marked in evidence at this time. I will only read one letter, naturally.

(Mr. Robinson) I object to the entering of both of them. They are verbatim the same, according to the United States Attorney. I see no justification for putting the same exhibit in twice.

(The Court) Instead of marking it 155 we will mark it 122-A, and I think the confusion will be avoided.

(Mr. Tydings) Fine.

(The Clerk) Government's Exhibit 155 marked for identification now marked as Government's Exhibit 122-A in evidence. Government's Exhibit 122 marked in evidence.

(Government's Exhibits 122 and 122-A were received in evidence.)

(Mr. Tydings) Ladies and Gentlemen of the Jury, Government's Exhibit 122-A, which you have just heard identified and described, is a photostatic copy of a letter on the stationery of the Congress of the United States,

marked personal and confidential, to the Honorable Robert F. Kennedy, Attorney General of the United States.

"My dear Bob:

"I flew from north Alabama where I have been speaking. We, in Alabama, are running at large. They have some kind of plan which is an 8-9 Plan. We and fifteen other states will have to run at large unless the Governors of these states call special sessions of the legislature and have the states redistricted. Arkansas did this; I am hoping that Chicago and Pennsylvania will do this, and all of them. I certainly hope we can do this in Alabama but there is no indication that we will so we first have to run in our district, the whole nine of us in our old districts with only eight to be elected, and then if all of the nine Congressmen are elected or if someone else is elected in their place then the whole nine will have to run at large in the whole darn state and one will be eliminated. Quite a burden, isn't it? As I have said, there are sixteen states in the same fix and very important states for the Democratic Party. I am fearful unless we do something drastic and at once, a lot of the greatest Congressmen that have served and been trained there down through the years will not be re-elected and as a matter of fact, will not run.

"The Dean of the Illinois delegation, the great Tom O'Brien, who I have served with over a quarter of a century, told me that he wouldn't think of running at large and so did Congressman Libonati and so did Bill Dawson and so many others in that state. They only lost I think, by about 700 votes. They tell me that a lot of the people they tried to interview when they were taking the census thought they had warrants for them and hid.

"Well, we would not have had to be redistricted here, but there is so much water, the beautiful gulf and the bay around here, there were many people missed being counted who were out fishing.

"Congressman Frank Chelf of Kentucky has a bill in that he presented to the Judiciary Committee that would

remedy the entire proposition. I am sure that you know about it, but if you don't, I will be glad to send it to you or you can have it looked up for you and it is in my office there in the Capitol and they will be glad to send it over. I put it in the Congressional Record and had a good deal to say about it and sent out many thousands of copies. Sam Rayburn was agreeable to it after he understood it, but he was sick, so very sick, and asked me to send it to him, which I did in Bonham, Texas, and asked me to call him Sunday several weeks ago and when I called he had gone to the hospital, so I guess he never saw it. His sight, as you know, had been doing him very, very badly.

"Anyway, there were 160 Congressmen that signed the discharge petition which is quite a crowd. They are very much upset about this and I would hate to lose the men in Chicago. Congressman Francis Walter, another staunch and great and good man who has been there many long years told me he could not run under any circumstances that it would cost him $26,000.00 to mail just one letter to the voters of that state. So you see, it is a pretty terrible thing. Frank Chelf's proposition is to take on a few more Congressmen. The Congress has been changed thirteen times. I believe this is covered in his bill, but I don't have it before me. George Washington was the first one that did this, and it came right on down through the changes ever since we had this country. I understand we haven't had it changed now for fifty years. There is no country in the world that has their Congressmen or Representatives in the same category as we to represent as many people as we here in our Congress represent: I mean England, France, Italy, Germany, or Japan. There are not many people that like to sign a discharge petition. I know I don't, but I have signed this. The Chairmen of thirteen committees have signed this petition so you know how important it is. I hope we are having this looked into. We could call a special session and remedy this, or when we meet in January we could bring this up and four or five of the men that expect to be Chairman have agreed that they will do this, and at that time this could be reme-

died. In the meantime though, the race is going on, fast and furious and at a very, very expensive rate and many, many of our true and tried men who are Chairmen of Committees and way up the line will not attempt to run at large. I believe you should put a group on this and hard because in my judgment, it is very, very important. Our opponents have some pretty good plans on this all of which I will tell you about when I see you.

"I have sent, besides sending it to Speaker Rayburn, many, many prominent men throughout this nation, copy of the Frank Chelf bill, and my remarks on same and the remarks of many other men in Congress. I sent your famous father this plan also, along with many, many others.

"Thanks, Bob, for your letter in answer to my memorandum on the Kenneth Edlin matter. I am glad that you found what I told you were facts. Ken Edlin answered every question that was asked him in Miami. Maybe they should have asked him other questions. He stands ready to answer them now or at any other time. He has and will be ready to help you on this matter and it may be as you mentioned that you will have him interviewed again. I think this might be a good idea. You might talk to the man that handled this matter. Some of my friends in Florida that know all of the facts thinks that Mr. Edlin is your most important witness. Jack Miller, your able and wonderful assistant has been grand on everything, but I am afraid the D.A.'s office in Baltimore has not and do not intend to cooperate with him on this. I do not believe the D.A. knows of the cooperation Edlin is giving in the most important matter. If he does not, don't you think you should tell him all the facts. Kenneth Edlin was introduced to me by our mutual dear beloved friend, Congressman Tom Johnson of Maryland. Tom thought before he had left, he had arranged for Edlin's matter to be put off until January 20th or thereabouts, at which time, Congressman Johnson and his foreign affairs committee will return from across the seas. But, I understand the D.A. wants this matter to come up December 4, 1961. Edlin is asking a continuance until thirty some odd days

later and he is doing this on account of a great deal they have made to sell the Waldorf, Maryland land to one of yours and my good friends and as an associate from Westport and Greenwich, Connecticut, Francis J. Finneman. Frank Finneman is a good friend of the President and his help was wonderful on the presidential campaign. Frank and his partners are successful builders and developers. The cost of the land and the improvements they are buying comes to $22,200,000.00, and there is deposited in the Baryland banks $3,000,000.00 (three million dollars) for the development alone.

"All of the people in Waldorf, Maryland, and La Plata from the Government up and down want and need this so badly. Papers from Edlin's group are drawn and signed by the Finneman group and the Connecticut group has put up a certified check as a binder to be turned over to close the deal when their lawyers have checked the lands on 13,000 acres. Thirteen thousand acres with four lots to the acre would amount to 52,000 lots. They figure these lots will amount to from $3,000.00 to $6,000.00 a lot, but just put them at $3,000. It will be $156,000,000.00, and a beautiful new city down between Waldorf and La Plata, Maryland. You, as a lawyer, know it will take at least sixty days or more for the Connecticut men and their lawyers to check their titles on 13,000 acres of land. All parties are concerned that if they start a suit before that is done that the papers as usual will have a lot of publicity, and will ruin the great development and maybe start a run on the banks that have made the $3,000,000.00 loan on the development there in Maryland. These banks and building and loan companies are in great shape and are making money and all stockholders are more than satisfied. There has just been a new check-up on the banks by the outstanding accountants of that part of the country; Governor Tawes has a copy of this statement now.

"So you can see the facts, these people that Edlin was agent for sold this property for over $10,000,000.00 more than they paid for it. Think of the great profit the people in these building and loan companies make out of this

alone. I know what I am talking about, because Colonel Albert Ernest, one of my associates, sold this property to the Charles Land Company and the Leisure Land Company for about $10,000,000.00 and these two companies have now sold it to the Connecticut men who are very outstanding in their profession of building and developing for $20,200,000.00. See what these wonderful stockholders and the building and loan companies have made and will make on the profit. These are the ones that they are objected to. I don't know of anything or anybody that could make money any faster than that and in such a short time.

"There is no doubt about it, if this trial was held on December 10th and if the trial was started on December 4th, and if there was a lot of pubicity, and if there should happen to be an unnecessary run on these building and loan companies, it could ruin this great development. As I told you, the lots alone would sell for about one hundred and fifty six million dollars, think of the thousands of homes that could be built there. It would be a development that I understand would amount to a great deal more than the three hundred million dollars or maybe a half billion. It is something that all the people there want with all of their hearts, as it is a very dead place, and has been for a long, long time. This is the old McLean (the Hope Diamond people) beautiful property there. It would be like bringing the dead to life. According to the Secretary of Agriculture in Maryland, this tract of land, between Waldorf and La Plata is one of the richest and finest pieces of property in the country. As a matter of fact, Governor Tawes says it is the largest undeveloped single tract in the entire State of Maryland and something should be done with it. The arm of the Pennsylvania Railroad runs four miles through this property. There are highways on all four sides and through it. The old 301 goes clear through the property and the new 301 goes through it. There are eleven hundred and some odd acres on one side of this beautiful road and about seven thousand acres on the other, going to the great Navy Base at Patuxent

where they have such a tremendous development and where there are about fourteen thousand people employed in hte government projects alone, each one coming to Washington or going anywhere to come by Waldorf. It's just a hub of that part of our great state, and I understand Maryland is the fastest growing state in this nation at this time.

"Our mutual dear friend, Congressman Langsdale Sasser of Marlborough, Maryland, is very much interested in the development down there, as you know, and I spoke to him about this and he said he was sure we could get the District Attorney, the Honorable Joe Tidings, to give them this short continuance, as nothing could be hurt and everybody could be helped, and as a matter of fact, as he pointed out, this case did not come up under your administration. It came up under the Republicans and he said that he would be glad to ask for this as he was a friend of Joe's and had recommended him when you appointed him. So, he phoned Joe Tidings and asked him for this short extension, but told me that he, the District Attorney, declined to give Edlin until about the 20th of January. I was talking to another great and good friend, Governor Millard Tawes, on another matter, and he is so keen about this great development there, and told him we needed a few extra days there until the title could be checked and the matter could be closed up, and Mr. Edlin would be out of this. He would have sold this interest. I think he is already out. He was just an agent, on regular commission, as I understand it, however, I do not know all the facts, but I do know this, it is a very small affair.

"I understand that one of the agents for one of the building and loan companies put in an ad that wasn't exactly right and an ad that Mr. Edlin had never seen in his life until he read it weeks after when it was brought to his attention. Governor Tawes said he would be glad to take this up with Joe Tidings, but called me and said that the District Attorney, the Honorable Joe Tidings, had declined. I am just wondering if he knows all of the facts in this matter and I'm wondering if he knows about

the cooperation that you are getting from Edlin in some other matters, and if he did, I feel sure that he would gladly give this small and short extension. The same banks and building and loan companies that are financing this wonderful and beautiful and nationally known Cassell colored development or city, there in Maryland, that I've told you so much about and that everybody is talking about, would also be in trouble if there was a run on these building and loan companies about this or anything else. I am told that the Cassell family, who owned this development, was financed by these building and loan associations and they have offered Cassell five hundred thousand dollars profit to buy him out on his development, but Cassell had declined. I am just pointing out that this, too, if anything happened to the building and loans, could be ruined which would be a tragedy as this Cassell development which Kenneth Edlin made possible could be wiped off the face of the earth. It just doesn't make sense to me and to the people in Maryland who are right there, and I hope that you will suggest to our District Attorney that he grant this January extension, and I guarantee you one thing, Bob, I'll never mention this matter to you or to Jack or anybody else again, but I don't see the sense in it, and this is a tremendous development and both Congressman Langsdale Sasser and Governor Millard Tawes know all about it and they too, agree with me that it would be the greatest development that we have ever had in that part of Maryland. I believe; however, I don't know, that the above gentleman told the District Attorney this and I don't see where anybody could be hurt by the January extension they are asking for, and I understand this matter is all about a very unimportant newspaper advertisement that I've already mentioned and that Edlin has never seen. I am sure that the District Attorney who has only been there for a short time, and didn't know about this case does not know all of the facts, and of the cooperation that Edlin has given everybody in many things and especially in one of the greatest developments that could ever happen in Maryland or

anywhere else and if you see this as we do, I wish you would suggest to the District Attorney in Baltimore that this be done. I wouldn't ask you to do this if it would jeopardize the case in any way, shape or form and neither would the Governor or Congressman Sasser. As soon as the attorneys check the titles to the property, the people who have bought it through Mr. Edlin, who is agent, could go right ahead with their case and not a one of us would ever say a word. If there is any other information you want on this, won't you please call me? I'll either be at my home here in Mobile, or at my office at the Admiral Semmes Hotel.

"What we are asking won't hurt the government. It won't hurt a person in the world, but in my judgment would help many, many people in that part of the country and many other places. I am so anxious to help on this or anything else in the development that will give us a lift, especially at this time. Everybody is feeling better and things are looking better and this would really and truly put that part of the great State of Maryland on the map, and would mean much to have the millions of dollars being spent there by our great friend, Governor Millard Tawes, and many of our other friends, especially all of the Congressmen who will be running for reelection while this great development is going on. Please call me if you need any other information, and with every good wish, now and always, I am, sincerely your friend. Advise.

"Sincerely,

"Frank W. Boykin,

"Member of Congress."

* * * * * *

[Tr. 2118-2134]

(The Court) Well, there are a couple of things that are open. We have this famous document 86 of which 86-A, the single letter, has been admitted, 86-B, the two paged—I don't know whether it is a summary or a two-paged statement—and no part of the very elaborate document, which is attached to it, has been read to the jury.

It is my understanding that if either side wanted any part of it read to the jury, they would look it over over the weekend and tell the Court whether either side or counsel for anybody wanted any parts beyond the first three pages, which I have mentioned, read to the jury.

(Mr. Williams) Speaking for the Defendant Boykin, Your Honor, it is our position that we did not object to the admission of the document. We have no disposition to have any of it read. If anybody wants any of it read or all of it read, it is perfectly agreeable to us, so we have no position.

(The Court) Does the Government wish to read any parts of it?

(Mr. Tydings) The Government wishes to read the first page of the synopsis, which I believe is marked "C", Your Honor. We do wish to offer the entire exhibit into evidence, not to read it, but merely for the jury to see the volume and see what it is.

(The Court) You can stand up and show them. It has been admitted in evidence, and you can show them what it is. You only want to read the first page of this, which is headed "Synopsis"?

(Mr. Tydings) That is right, the page which is headed "Synopsis."

(The Court) If the Government reads that, you still don't wish to read any more?

(Mr. Williams) No, I would like to have Mr. Tydings read all or any part of it, preferably all.

(The Court) If the Government only reads the first page "Synopsis," do you wish to read any more?

(Mr. Doub) Not at this time, Your Honor. It may be at a later time.

(The Court) I think whatever is to be done as part of the Government's case ought to be done, because it must be nearly over by now. Of course, you can read additional

parts, and if you read additional parts the Government will then have an opportunity to read further parts. I want to know what everybody wants to read at this time if the Government reads the first page.

(Mr. Genn) Well, evidently it doesn't pertain primarily to the other defendants, in any event. We would like pages 1 through 4-A read.

(The Court) All right.

(Mr. Genn) Particularly in the light of this witness' last testimony.

(The Court) All right.

Well, the Government wants a "Synopsis." Mr. Edlin wants pages 1 through 4-A.

Mr. Robinson?

(Mr. Genn) I had not concluded. Exhibit C of Mr. Rains, paragraph 1, the first page.

(The Court) Where does that occur, do you know?

(Mr. Tydings) Near the back of the synopsis.

(Mr. Genn) Exhibit C is the second to the last exhibit, I believe. It says: "The following exhibit is agreed is a brief prepared by Jackson Rains." This is an exhibit marked for identification by Mr. Tydings.

(The Court) I haven't gotten down to it yet.

(The Court) You say it is Exhibit C?

(Mr. Genn) Yes, Exhibit C.

(The Court) "The following exhibit is a brief prepared by Jackson D. Rains." Do you want that whole thing read?

(Mr. Genn) No, that won't be necessary, Your Honor.

(The Court) How much?

(Mr. Genn) Paragraph 1, beginning in the fourth sentence, "I was asked by Edlin" up to "accountants' hand-

book," and then on page 2 of the exhibit starting with "Mr. Samuel Cohen" up to "greater surplus" on the next page, page 3.

(The Court) Beginning on what page?

(Mr. Genn) Well—

(The Court) That is a very small part on page 1 then, isn't it?

(Mr. Genn) That is right. "For my authority I was using an accountants' handbook," and you can stop there.

Then on page 2, it starts "Mr. Samuel Cohen of Burk, Lansburgh and Gerber," the second to the last paragraph up to "greater surplus," on the next page.

(The Court) "Greater surplus," that is about line 3 on the next page.

(Mr. Genn) That is right.

And page 5, paragraph 3, which is about the midsection, something just above the midsect "Conclusion: How can it be said that this was fraudulent accounting," and so forth. "I did not believe then nor do I believe now that they had any other intention than an honest regard for the association and the savers."

Now, so that I may perhaps, I may have misunderstood—and if I am incorrect, I would like the Court to tell me—I had intended to make a motion for a mistrial with respect to this. I have previously made them, I realize. I do believe that the Court could hear some law with respect to the matter, and the summary of the reasons why I believe that we have reached now a mistrial, a cumulative point which was not reached previously, and as to why a severance or motion for a mistrial should be granted. If the Court prefers not to hear it—

(The Court) I will hear you right now.

(Mr. Genn) I might state this, first of all, Your Honor. I stated from the outset when we began this case that I

felt that a very vital principle was the principle that was stated in the Michaelson case. I don't have to repeat that at this time. The Court is familiar with it, and caused Mr. Tydings to proceed in a case along that line. That line was to make certain that the issues of character were not the primary issues to be decided in this case.

I also stated to the Court both off and on the record that we had some objection to the constant reference of indictment. I stated to you, also, that in candor I think the law was against the position I was urging, but I felt to preserve my client's rights I had to continue that objection. It has become perhaps persistent. I am sure that almost everybody who has heard it has thought it was just repetition without any substance, but there are times when one has to continue this.

Now, the question is what is the ultimate effect as of now? I reviewed the record over the weekend, Your Honor, and I would like to state what is the total sum of things as this case has developed right to this particular point of why should the motion be granted.

The opening statement of the Government referred to the fact that money of savers was used. That is absolutely irrelevant to this case. There will be no one item, I might say, in my view that I am now stating to you as facts in this case is necessarily one which in and of itself I am urging is sufficient, but it is the sum total, the aggregate. The aggregate was a factor in Tamiello, which was in 249 Fed. 2nd, the Tamiello case. The aggregate of error that hase been developed.

Now, what is it? Let's take each witness. Let's take, for example, the first witness, Jackson Rains. Now, with reference to his particular testimony, with reference to Jackson Rains' testimony, he testified to actions and activities that occurred during the savings and loan case. Then in the course of his testimony, as I recall, it was developed that there was an indictment, a nollo plea, it was brought out before the jury what the sentence was of Mr. Edlin.

(The Court) By the co-defendants and not by the Government.

(Mr. Genn) Now, if the Court is taking the position that merely because a co-defendant brings something out that that is not a ground by which this defendant may contend his rights to a fair trial, I would like to be certain that I understand the Court's position, because if that is the Court's position, I urge that it is strongly in error.

(The Court) It is a factor to be considered in a case of this sort, whether it is done by the Government or whether it is done in good faith by a co-defendant attempting to defend his case the way they think it should be defended; whereas you think it should be defended in a different way. That is as far as it seems to me, I can see that a co-defendant may under certain circumstances produce evidence which would make it unfair, but the fact that it is brought out by a co-defendant in a bona fide defense to the case is a factor to be considered, where the Government has been cautious.

(Mr. Genn) Your Honor, the good faith of these defendants has no weight whatsoever when balanced against the constitutional right to a fair trial. Now, I am not—

(The Court) Mr. Genn, just make your argument. I agree with that. I am not talking about good faith of the defendants, the point of fact that they are not trying to throw the hooks into you.

* * * * * *

(Mr. Genn) Another point about this is the fact that originally, it is like a kind of cancer when you get into it. I do not want to characterize it. But the fact remains that the first things might be somewhat harmless but every time that Your Honor instructs the jury, you are just operating on a cancer that is already malignant. They have heard the testimony. They heard the highest official of the United States Attorney General characterize in effect this defendant a liar. And he had a strong case. The end result was when he suggested—

(The Court) Even after he told your alleged co-conspirators that he had a strong case, your alleged co-conspirators for reasons which the jury could find I believe, to have been pecuniary, nevertheless, except on trying to press against the efforts to have the case against your client either dismissed or postponed which was, according to the allegations of the government, and unless you can persuade me to the contrary, of which there is some evidence that your client engaged in a conspiracy to have them do, I do not make any finding of fact. But I say that there is some evidence of a conspiracy up to this time.

(Mr. Genn) That does not bear in the slightest on the right to bring out in testimony the fact that it was the opinion of the Attorney General of the United States that there was a strong case and it also was his opinion that not satisfactory evidence was being given by this defendant and he was not being wholly truthful.

Now, that damage was done. It could never be eradicated from that jury. The day before that it was brought out through Mr. Goldman that there are pending indictments in Montgomery County against this defendant. Pray tell how can he eradicate that from the mind of that jury? You operate on it. You increase it when you mention it. And the fact remains that that is not in furtherance of the conspiracy nor is the statement that the Attorney General made in furtherance of the conspiracy. You can not justify it on that ground.

(The Court) Of course, the statement was not made in furtherance of the conspiracy. But what your alleged co-conspirators did after the Attorney General made the statement to him is evidence of acts in furtherance of the conspiracy.

* * * * * *

(Mr. Genn) I know I am not going to be terribly persuasive to convince you of this. Then we ended up finally with Mr. Meyer and the testimony today about incidents that go back a long period of time. Now, there is a point in

time when one can say "Yes, maybe such discussions were raised" but they are so damaging and prejudicial and so unfairly underscored that no jury can fairly make a determination of guilt or innocence on one basic issue: Was there an agreement and was there payment for it and that is all.

But what we have got is everything we talked about the 190-day—the 1941 conviction the Securities and Exchange Commission Violation. We talked about everything in creation except what was specifically involved. I am not going to convince Your Honor I am sure, but I think the record should indicate I have made the attempt.

(The Court) Does anyone else want to say anything?

Motion is denied. I think you are asking me to have the play of Hamlet without any reference to murder.

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[Tr. 2140-2211]

CROSS EXAMINATION

By Mr. Johnson:

Q. Mr. Miller, did you testify before the grand jury in this case? A. I did not.

Q. Did you prepare a memorandum for the District Attorney in respect to a report in this case? A. I prepared a memorandum in which I tried to set forth to the best of my ability what happened.

Q. Now, yesterday on the stand you testified as to what we term a "consolidated list" of telephone calls, meetings at your office at the Justice Department. Do you recall that testimony? A. Yes, this exhibit.

Q. And that is referred to, I believe, as Government exhibit No. 144. A. Yes.

Q. Now, first, Mr. Miller, may I ask that you refer to that list and month by month testify as to the exact number

of visits by the defendant Johnson to your office. May I first refer to the month of April, 1961. How many meetings were there at your office during the month of April, 1961 by Defendant Johnson and Defendant Boykin? A. Well, in April, you were in on April 17, Congressman Johnson. That was the only meeting.

Q. So that the entire month of April, 1961, there was only one conference with you in your office with Defendant Johnson and Defendant Boykin, is that correct? A. Yes, Congressman. That was in my office. I believe that I sat in on part of the conference with you and Congressman Boykin earlier in April in the Attorney General's office.

Q. But I am referring specifically to in your office. A. Yes.

Q. As shown in government exhibit 144? A. That is right.

Q. Now, I direct your attention the month of May, 1961. Will you state how many conferences the defendants Johnson and Boykin had in your office with you during that month? A. May 3 Congressman Johnson and Congressman Boykin were in to see me.

May 22, Congressman Johnson and Congressman Boykin were in to see me. Those are the visits.

Q. So that during the entire month of May there were only two visits by Congressman Johnson and Congressman Boykin to your office during May? A. Yes.

Q. Now, I direct your attention to government exhibit 144 and ask you as to the month of June, how many conferences did Defendants Johnson and Boykin have at your office? A. June 12 Congressman Boykin and Congressman Johnson were in to see me.

June 15 Congressman Boykin and Johnson were in to see me.

June 27 Congressman Boykin and Johnson were in to see me.

And those are the visits in the month of June.

Q. So, for the entire month of June there were three visits? A. That is right.

Q. And you testified that the visit on June 15 was the occasion when Mr. Meyer was brought to your office? A. Yes, Congressman, that is my best recollection.

Q. Is it not true, Mr. Miller, that there was no conference on that date, merely that Mr. Meyer was brought to your office? A. Yes. The best of my recollection is you just brought him in and I said that I did not have time to talk with him and sent him down to see a lawyer. So, I am sure that that was a very short visit.

Q. So, actually, there were only two conferences during the month of June by defendants Johnson and Boykin? A. Yes.

Q. Now, we are going to the month of July, 1961, and will you tell the jury how many conferences or meetings there were with you with defendants Johnson and Boykin during the entire month of July? A. I do not see any. There were no meetings.

Q. There was nothing in July A. No meetings.

Q. Now, we go to the month of August, 1961. Will you state how many conferences there were at your office with Defendant Johnson and Defendant Boykin during the entire month of August? A. Yes, Congressman Johnson, you were in on August 7. You were in on August 24. That is a total of two meetings.

Q. Two meetings in the entire month of August? A. Yes.

Q. Now, I refer you to September of 1961 and ask you whether you would tell the jury how many visits there were during the entire month of September. A. September 14 Congressmen Johnson and Boykin were in to see me.

September 21 Congressmen Boykin and Johnson were

in to see me. Those were the visits for the month of September.

Q. So that, during the entire month of September, 1961 there were only two visits by defendants Johnson and Boykin to your office? A. That is correct.

Q. Now, getting into October of 1961, how many visits were there to your office by the defendants Johnson and Boykin? A. There was a visit on October 16 by Congressmen Johnson and Boykin. I believe that is the only visit. Yes, that was the only visit in October.

Q. So that during the entire month of October, there was only one visit by Defendants Johnson and Boykin to your office? A. That is correct.

Q. And yet your exhibit shows, does it not, a long list of telephone calls was kept to make appointments for other reasons that the telephone was used? A. Yes, this list is a list of everything which was in my secretary's book.

Q. Now, in November of 1961 then, were there any conferences with you by defendants Johnson and Boykin? A. By this, you mean personal?

Q. Personally at your office? A. The month of November, no.

Q. Were there any in December of 1961? A. No, there were no conferences in December.

Q. Now, Mr. Miller, you referred to the meeting of April 12, 1961. That was a meeting, was it not, sir, with the Attorney General? A. Yes, it was. I cannot really place that date. I know that I was not at the first meeting that you had with the Attorney General, but I recall going up and I think the meeting was just about over because I know that the three of you were sittting around his desk, the Attorney General, you and Congressman Boykin, and I came in apparently right at the tail end of that meeting.

Q. And do you recall what, if anything, the Attorney

General told you at the time of that meeting in respect to Congressman Boykin or Congressman Johnson or both, talking with you about this case? A. I do not recall but I am sure that he probably said, would you please review the case and either let him or let you two know what the result is? I have no independent recollection of that but I am sure that is the way it would have been.

(The Court) Can the jury hear the witness? I think you had better bring the microphone closer to you. You drop your voice and the jury might not hear you.

By Mr. Johnson:

Q. But it is a fact, is it not, Mr. Miller, that at this April 12th meeting that you referred to, the Attorney General specifically asked you to review the Edlin case? A. Congressman, I cannot recall that but I will accept the fact that he did because I am sure that he did but I can not specifically call that to mind that he told me to do it.

Q. And can you state whether, in your presence, and in the presence of the Defendants Johnson and Boykin, both, that the Attorney General requested the defendants Johnson and Boykin to get in touch with you? A. I do not recall that but again, it would not surprise me if he so stated.

Q. Now, the first meeting at your office was on April 14, was it not, sir? A. Yes.

Q. Can you tell the jury exactly what transpired at that first meeting? A. Congressman, as I testified yesterday, I really cannot testify as to what happened specifically at any one of these meetings. This was in the course of a busy day and I can recall the substance of what was said. I can recall bits and drabs but I find great difficulty in placing a particular statement at a particular meeting and I have tried to refresh my recollection, for example, one reason why the meeting of May 3rd—I have a better recollection of it, is because a letter was written the day afterwards which pinpoints the date of that meeting.

Q. All right.

(Mr. Williams) Your Honor, I think, for the purpose of the record, it should be clarified. I think Mr. Johnson misspoke himself, if I heard him correctly. He asked about a meeting of April 14 where the record shows the meeting was on April 17.

(Mr. Johnson) 17, I think you are correct.

(The Witness) That is correct. I mis-read it. April 14 you called for an appointment. April 17 the meeting was held.

By Mr. Johnson:

Q. Referring again to April 17 the meeting of that date to refresh your recollection, do you recall when Defendants Johnson and Boykin came to your office, whether they had any drawings or plans with them? A. Congressman, it is my recollection that this first meeting was with you alone and my records so indicate. On the drawing and plans, I do not recall that I ever saw those. I believe that I have seen brochures of the Cassell Development but I do not believe I ever saw drawings and plans.

Q. Well, to refresh your recollection, the drawings that were designated as Boykin City, does that refresh your recollection? A. I remember the term "Boykin City" being used in discussion of the development but I really do not recall. Were they big, long?

Q. Very large—were they not, sir, the large drawings, three in number? A. I do not recall that, Congressman. I really do not.

Q. You do recall, Mr. Miller, do you not, that there was a great deal of discussion as to a development in Southern Maryland? A. I do, indeed.

Q. And that some 8,000 acres were involved in this development? A. Yes, I know now that 8,000 acres. I assume I probably knew it then. In fact, I think the 8,000

acres is referred to in Congressman Boykin's letter to me of May 4.

Q. And that what it meant to Southern Maryland, this development, from the standpoint of employment? A. Yes.

Q. Benefits to the economy? A. Yes, I specifically recall that.

Q. In fact, it is true, is it not, that on the first meeting a great deal of discussion was had in respect to the Southern Maryland property? A. I am sure that there was a good deal of discussion about the housing developments.

Q. And at this first meeting, Mr. Miller, do you recall whether or not Defendant Johnson made the statement that neither defendant Boykin nor defendant Johnson wanted to interfere in any way with the Department of Justice in respect to the pending cases? A. Oh, Congressman, I remember that very clearly.

You said it. I cannot pinpoint at which meeting but I know that you stated that to me and Congressman Boykin did on more than one occasion. There is no question about that.

Q. That we did not asked any favors and that neither Congressman Johnson nor Congressman Boykin wanted to interfere with justice in the disposition of the Edlin and First Colony cases? A. You so stated on several occasions.

Q. Now, as to the April 17th meeting, Mr. Miller, would it refresh your recollection that at that meeting you stated that you had not had a chance to read the memorandum, that you had been busy with other matters and that the conference would have to be deferred to a later date? A. I do not recall that but the way the work was running at that time, I could not deny that I said I had not had a chance to review the memorandum as yet.

Q. Now, that, I believe, you stated was the only and the one meeting in April which is on April 17 in your office? A. Yes, that is correct.

Q. Now, coming next to May 3 of 1961, you do recall that meeting in which defendants Johnson and Boykin were both present? A. Yes.

Q. And is it not true that much of the discussion dealt at that meeting in respect to what you described yesterday as the Dranow matter? A. Congressman, that is not my recollection. I will tell you why I do not think so. Because it is my recollection that it was at the end of that meeting when Congressman Boykin first mentioned that Edlin could be of help in the Dranow matter and he mentioned the memorandum and he said that he had supplied it to the Attorney General some time before and I did not know at that time of the existence of that memorandum and he, in fact, agreed to send it to me and did, in fact, send it to me by letter of May 4.

Q. And that is a government exhibit, I believe, 154, the letter you have referred to from Congressman Boykin? A. I do not know what number it is.

Q. But in the letter, does not Mr. Boykin refer to the discussion the day before on the Dranow matter? A. Oh, yes. But you asked me if it took up a substantial part of the conference, and I am quite positive it did not because it was right towards the end he brought up this memorandum.

Is it not true, Mr. Miller, that the first notice or information that the Justice Department had in respect to the Dranow matter was from Mr. Boykin and that was prior to the first visit with the Attorney General in March of 1961? A. I missed that question, sir.

Q. I say that, is it not true that this Dranow matter was brought to the attention of the Justice Department prior to the first visit with the Attorney General in March of 1961 when the Attorney General was asked to review

the Edlin case? A. Well, of course, I do not have personal knowledge of when the Attorney General was informed but I believe it was in early March. I think your first meeting with the Attorney General was March 25, 1961 and I think this matter was referred to him earlier than that and I think a copy of the memorandum was furnished the Department of Justice, maybe the middle of March. I had not seen it, however.

But to the best of your recollection, this matter dealing with Dranow, which also later developed as dealing with Mr. Hoffa, was brought to the attention of the Justice Department before any request for review of the Edlin case? A. Yes, I do not have personal knowledge that it was but I know, from department records, that it was.

Q. Yes. Now, on the May 3rd meeting of 1961, you desired, did you not, sir, a rather detailed report as to the Dranow matter? A. I do not recall asking for a detailed report, Congressman.

Q. Do you recall a discussion with defendant Johnson as to what knowledge he had of the case, the Dranow case? A. No, I do not recall that. My recollection is I discussed it with Congressman Boykin and it was he who brought forth the existence of this Dranow memorandum.

Q. And Congressman Boykin, did he not say, sir, that the Attorney General had requested him to get in touch with you with respect to the Dranow case? A. Oh, I cannot recall. I would not be surprised if he had. But it seems to me—

(Mr. Tydings) I am having trouble hearing you. You keep dropping your voice when you answer a question.

By Mr. Johnson:

Q. Now, on the May 3rd meeting, did you mention to Defendant Johnson and Defendant Boykin that investigations were going on in several areas in respect to Mr. Hoffa? A. Well, I do not recall whether I did or did not but if I did not, I could have, because there were.

Q. If I refresh your recollection, do you recall stating that there was a grand jury meeting in Miami, there was another one in New Orleans and I believe a third place in respect to investigation of Mr. Hoffa? A. I do not recall saying it at this specific meeting. I could have said it at one of these meetings because we were looking into the $100,000 treasury certificate at that time.

Q. And then at the May 3rd meeting, Mr. Miller, do you recall that there was some concern on your part as to whether Mr. Edlin had received part or all of the $80,000 or the $100,000? A. Yes, sir.

I am quite sure that was discussed at the May 3rd meeting, because of the fact that it is mentioned in Congressman Boykin's letter the next day.

Q. And did you recall that you were interested in knowing whether Mr. Edlin had received any part of the proceeds? A. I am sure I probably was but I do not specifically recall that I asked the question.

(Mr. Johnson) Would you mark this defendant exhibit for identification?

(The Clerk) Has the other side seen it, Mr. Johnson?

(Defendant Johnson exhibit 9 marked for identification.)

(The Clerk) Defendant Johnson exhibit 10 marked for identification.

(Defendant Johnson exhibit 10 marked for identification.)

By Mr. Johnson:

Q. Mr. Miller, I hand you this which is marked for identification and ask you if that refreshes your mind in respect to the request for the information as to Mr. Edlin in respect ot the $100,000 note? A. No, I recall this letter and I think that I wrote you a letter in reply at a subsequent time. I know that the— I assume what the informa-

tion was that you were talking about has something to do with Edlin but I, frankly, have no specific recollection because I remember I wrote back I think to Congressman Boykin a few days later and said I understood Congressman Johnson was going to be in touch with me about a matter discussed at the office. I assume that was about the Edlin matter.

Q. I hand you this, sir, and ask you if that is the letter which you referred to which is your reply? A. Yes, that is the one I wrote. May 15.

Q. Now, it states in your reply, does it not, that you—

(Mr. Williams) May we have those letters identified from whom to whom and date for the record, Your Honor? We do not know, sitting over here, what they are.

(Mr. Johnson) Defendant Johnson exhibit for identification No. 9, a letter to the Honorable Herbert J. Miller from Thomas F. Johnson, dated May 9, 1961.

Defendant Johnson's exhibit 10 marked for identification — a letter to the Honorable Thomas F. Johnson from Herbert J. Miller, Assistant Attorney General, dated May 15, 1961.

(The Court) Well, would it not be well to have them read to the jury now so they will have some idea what the questions are rather than to have them read later entirely disassociated with what the witness said about them?

(Mr. Johnson) I would be happy to.

(The Court) Can it be done with the understanding that it does not waive any of the defendant's motions at the end of the Government's case? I think we ought to have some continuity between the exhibits and comments. Is that agreeable, Mr. Tydings:

(Mr. Tydings) We have no objection.

(The Court) Let that be marked in evidence then and

read to the jury so the jury can tell what the witness is talking about.

(Mr. Tydings) Would you like to have the originals, Mr. Johnson? Those are copies. The original is the same.

(Mr. Johnson) I would be happy to put the original in.

(Mr. Tydings) We have them if you want them, otherwise you can just read the copies. It is the same wording in both so it does not make too much difference.

(The Clerk) Defendant Johnson exhibits 9 and 10 marked in evidence.

(Defendant Johnson exhibits 9 and 10 received in evidence.)

(Mr. Johnson) If the Jury please, exhibit No. 9 referred to, offered in evidence, is a letter dated May 9, 1961, to the Honorable Herbert J. Miller, Jr., Assistant Attorney General, Criminal Division, Department of Justice, Washington 25, D.C.

"Dear Jack:

"Prior to leaving on Friday past, I tried to reach you by telephone but with no success. I have been able to secure the information on the matter discussed in your office which should prove of considerable importance.

"With kindest regards, I am,

"Sincerely yours,

Thomas F. Johnson."

Then there is a letter dated May 15, 1961.

To the Honorable Thomas F. Johnson, House of Representatives, Washington 25, D.C.

"Dear Congressman:

"In reply to your letter of May 9, I tried to reach you last Saturday but apparently your office was closed and for which I must apologize. I forgot to call earlier in the

week. I would, of course, be happy to discuss the matter in question with you at your convenience.

"Sincerely,

"Herbert J. Miller, Jr."

By Mr. Johnson:

Now, Mr. Miller, I noticed—according to the May 15 letter, that you did try to reach me by telephone, is that correct? A. Yes, that is correct.

Q. Now, does that reflect on your statement of telephone calls as to that call trying to reach me? A. Yes, that is, I am pretty sure this would be the call, May 6 at 10:20, "Called Congressman Johnson, returned call at 5:05."

You had called me on May 5 and this was my return call on May 6 and there is a notation "No answer," so I assume that I did not talk to you.

Q. Now, Mr. Miller, do you recall that as of the May 3rd, 1961 meeting, whether any arrangements or suggestions were made as to Mr. Edlin and Mr. Robinson to appear before a Federal Grand Jury in Florida? A. I doubt it, Congressman. I think that there were discussions at a subsequent time. In fact, you and Congressman Boykin came to see me later on. I assume it was the 22nd and I believe that was the date that Edlin and Robinson were interviewed by attorneys in the Criminal Division.

Q. You do not recall as to the May 3rd meeting? A. I assume that the May 22nd date is when there was discussion of Edlin and Robinson giving a statement to the Department.

Q. Now, as of the May 3rd meeting, was there anything improper or illegal in your opinion as to that meeting with Defendants Johnson and Boykin at your office? A. Congressman, in so far as my knowledge of the facts, as they existed at that time, the answer is there certainly was nothing illegal and I would say there was probably nothing improper.

Q. Now, we next go to the meeting on May 22, 1961. You stated that you do have some recollection of what took place at that meeting? A. I think the only way I could have any recollection of what specifically took place at this meeting is that this is the date Edlin and Robinson were interviewed by lawyers in my division and so I must assume that there was some discussion of that on May 22.

But, running all throughout these meetings, Congressman, we were not just talking about Edlin and we were talking about the various points of the case and the impact on Maryland. It is very difficult to separate out individual things. We were discussing the whole problem and I am pretty sure that probably at each of these meetings, because we kept going over and over it.

Q. What was the final date—if you know—that Defendant Edlin and Defendant Robinson finally did appear before a grand jury in Florida? A. I believe that was in, I think it was in September of 1961. September 21, around about that time.

Q. Then is it a correct statement that from the very first meeting in May through to September, the last of September, the Dranow case was discussed periodically? A. I missed the period.

Q. From May, the first meeting in May, on May 3 to the last of September, 1961, is it not true that the Dranow case which allegedly involved Mr. Hoffa, was discussed from time to time? A. Oh, yes, I am sure we discussed it from time to time during that period.

Q. Now, at any time did you request defendant Johnson or defendant Boykin or both to intercede with Mr. Edlin and Mr. Robinson to have them go before a grand jury in Florida? A. I do not recall that. It is my recollection you offered, first of all, to bring him in to be interviewed and then you, in effect, offered his services before a grand jury if we wanted him.

Q. May I ask, Mr. Miller, who advised that there was a

grand jury meeting in Florida during that period of time? A. Who advised whom?

Q. Defendant Johnson and defendant Boykin. A. Well, I do not specifically know that anyone did advise you of that fact but if you were so advised, I assume that either I advised you or that Edlin or Robinson advised you after they had talked to the attorneys who were working on this case from my division.

Q. Do you recall during the meetings in May that you asked the defendant Johnson and defendant Boykin to determine whether Mr. Edlin would appear before the Grand Jury in Miami? A. I do not specifically recall it but I may very well have.

Q. Do you recall that, if they would appear, to advise you so that arrangements could be made that they would be interviewed, that is, Mr. Edlin and Mr. Robinson, the date set for their appearance? A. Well, they were interviewed on May 22 by my attorneys and I assume that this matter was discussed at the meeting of May 22. You probably at that stage said that they would be willing to be interviewed and I notice that at 2:45 on that afternoon, I called you and talked at 2:50. I assume I was calling you to say that, if they wanted to be interviewed, they could set up an appointment with attorneys in my division. In fact, that happened that afternoon.

Q. So that there was an interview set up with Mr. Edlin? A. Yes, sir.

Q. And Mr. Robinson? A. Yes.

Q. Now, on the May 22nd meeting, do you recall Defendant Johnson stating to you that it would be made clear, it should be made clear to Mr. Edlin that his appearance before the grand jury in Miami should not be taken in any way as any deal or any favor that could be considered in his case. A. No, I do not recall that. I assume I probably made it clear that his appearance would have

to be voluntarily made. Because he was then under a pending indictment. I do not recall any statement, however.

Q. You recall no discussion as to when Mr. Edlin would be approached as to what would be said to him in respect to his— A. Congressman, I do not.

Q. But you would not say that that conversation did not take place? A. I am not sure that I would not, as a matter of fact, because my guess—no, I hate to guess on the stand. I am sure that what happened it that you offered his services to appear to be interviewed and then I said, "Well, if he comes in, it has got to be voluntary," because he was then currently under an indictment.

Q. And at that time did you not hear defendant Johnson say that it would be made clear to Mr. Edlin that what he was doing would not affect in any way his pending case? A. I do not recall that but if you said it, Congressman, I want to be as fair as I can in this—I will accept the fact that you said it. I just do not remember.

Q. Is it not true that defendant Johnson was somewhat concerned as to Mr. Edlin's appearance because he, at the time was under a federal indictment? A. I do not recall that but my recollection is, frankly, that you and Congressman Boykin were both anxious. One, that he be interviewed and two, that he appear before the grand jury.

Q. And at the same time, was not the government anxious to have his information and his appearance before the Grand Jury? A. I would not say the Government was anxious but we were willing to accept the information to see whether or not it would prove of value.

Q. Now, would you tell the jury, Mr. Miller, whether or not to your knowledge, Mr. Edlin was requested to go before the grand jury and you were so notified by Defendant Johnson and Defendant Boykin? A. Well, I know it happened. I do not know that I had personal knowledge that he would. I know he eventually appeared.

Q. Do you know when that appearance occurred? A. September, was it the 21st, 1961?

Q. Mr. Miller, how many times did they appear before the grand jury or in Miami in respect to the Hoffa investigation?

(Mr. Tydings) Did who appear?

(Mr. Johnson) Mr. Edlin and Mr. Robinson.

(The Witness) Let us see. My recollection is that they went down once and they did not appear. They were scheduled to appear at a later date and I think Mr. Robinson had a death, an uncle died, or something, that he could not appear and then they eventually appeared.

I think it was September. The records will show when it was. September, about the 21st.

Q. But prior to September 21, 1961, Mr. Robinson and Mr. Edlin did make a trip to Miami, Florida for the purpose of testifying in an investigation dealing with Mr. Hoffa, is that not true? A. Well, when you say "an investigation dealing with Mr. Hoffa," I am not sure that that was the—that that would be completely accurate. Wait a minute. It would, too, because I remember he came forth with some additional information which had not been contained in the first memorandum. Yes, he went down, I was not there, so I really do not know, but I am sure that I was told that he went down to testify and this would be June.

I really do not know when it was, and the Grand Jury was dismissed and he did not testify.

Q. Actually, through some so-called "mix-up," they did not testify on the first occasion, is that correct? A. That is what I am informed, yes.

Q. Now, following that, do you recall communicating with Defendants Johnson and Boykin asking whether they would intercede with Mr. Edlin to have him return again

to Florida to testify? A. No, I may very well have done it, but I certainly do not remember it.

Q. Do you recall having been told by defendant Johnson and defendant Boykin that they had been in touch with Mr. Edlin and he had refused to return to Florida to testify before the grand jury? A. No, the one thing I do remember is Congressman Boykin called me and asked me to get an extension of his appearance in Miami because of a death in Mr. Robinson's family, and I said, "Well, don't worry about it; we will take care of that." But that was at a subsequent time.

Q. You say you have no recollection of being advised that Mr. Edlin refused to return to Florida to testify at a subsequent meeting of the grand jury? A. I have no recollection of that, Congressman. In fact, I sincerely doubt that I was ever so informed.

Q. Well, if I refresh your recollection, didn't Defendants Johnson and Boykin come to your office to tell you that there had been threats made against Mr. Edlin and against his wife, that Mr. Edlin refused to go back to Florida, that you wanted to know where the threats emanated from, who made them; if they would return back, you would see that they would be given protection, do you remember that? A. I remember Mr. Robinson coming in to my office and telling me that they had received word from a fellow by the name of McDaniels, they had received a telephone call that McDaniels had better take care of whatever business he had with Edlin, because Edlin was going to be killed and also I think Mr. Robinson at that time told me that Mr. Edlin had been threatened by—I forget now, someone over in Batimore. I forget the exact circumstances.

This was brought to my attention by Mr. Robinson. I suppose that would have been probably in September, and I'm quite sure that I then prepared a memorandum to J. Edgar Hoover, bringing the matter to his attention.

Now, additionally, there was some other matter Mr. Robinson mentioned to me, I cannot recall.

Q. But, Mr. Miller, you do recall that there were these alleged threats against Mr. Edlin and against Mrs. Edlin? A. Yes.

Q. That was brought to your attention? Yes.

Q. And you say you do not or do recall telling Defendant Johnson and Defendant Boykin that, if Mr. Edlin would return to Florida, you would see that there was proper protection given him and also to Mrs. Edlin and to so advise them? A. Congressman, the reason I have great difficulty in believing that is true is because I do not recall ever arranging some protection for Edlin. Now, if the records would show that I had called the Marshal or someone to give him protection, well, then, I would, of course, agree with you. It is my recollection that Mr. Robinson told me about that.

Q. And, particularly, as to Mrs. Edlin receiving these anonymous calls at her home in Miami. Do you recall that being brought to your attention by defendant Johnson and Boykin? A. Was this the incident when a dog barked?

Q. Yes. A. Now I remember. The dog barked at Mr. Edlin's home. I remember that now. I had forgotten about that. Now, that, you probably told me about that. I was thinking of the other incident with Mr. Robinson.

Q. Did you not state that if that were true you would investigate and that you would see that proper protection was given? A. I doubt seriously I would have said that proper protection would be given.

Q. Or you would endeavor to get protection or you would make the request for protection? A. I probably said that I would look into it, period.

Q. And, as you stated that in September, Mr. Edlin and Mr. Robinson did appear before the grand jury? A. I am so informed.

Q. Yes. And is it not true that in appreciation of their appearance, that the Attorney General did get in touch with Mr. Boykin, in fact, wrote him and thanked him for making possible their appearance; have you knowledge of that letter? A. No, I do not believe I have seen that letter.

Q. Now, the next meeting that we referred to is on June 12, 1961, is that correct? A. Yes.

Q. Do you recall what took place at that meeting? A. The best of my recollection, this was a meeting—of course, it is so difficult to try to pinpoint what happened at each of these meetings, but I am sure we were discussing the issues of the case and whether or not the indictment was well founded.

Congressman, you will recall that you told me on several occasions and probably including this meeting, that you felt that the indictment against Edlin was a result of the controversy between the independent savings and loan associations and the Federally chartered savings and loan associations and that this was—I do not know whether you used the term "vendetta" or not, but a "vendetta" by the Post Office employees who investigated the case, or somebody in the Federally-chartered savings and loan field who were out to "get" Edlin because he was running an independent savings and loan.

Now, I am quite positive that you may very well have mentioned that at every one of these meetings, because I can remember this was—you discussed this at great length.

Q. Yes. And that was during the time that you were reviewing the case? A. Yes, at this time. Sometime in here I looked at the case. I probably looked at it rather superficially because I really did not get down to examine the case carefully until August but I had gone over it. I had a memorandum. The Attorney General asked me to prepare a memorandum in the beginning of April on the facts of this case, and this was in effect a reply, or discussion or analysis of the large brief that you filed with the At-

torney General which went into all the facets of the indictment and facts. I had been requested to and did send the Attorney General a memorandum which analyzed and considered the various facts. I had a working knowledge of the case at that time but it takes a long time, as you know, to delve down into the facts of the case and I really did not do that until August.

Q. Mr. Miller, do you recall that on this June 12 meeting, that you were asked as to the merits of this Edlin case, and whether, in your opinion, it was a case that should be disposed of or should not be disposed of by fine? A. Sometime in the progress of our various conversations, and it could well have been right in this area, the discussion came up as to whether or not the case could be disposed of by dropping the charges against the individual defendants and letting the corporation plead guilty, and have a fine imposed and, of course, the trouble with that is that then the shareholders would have to—or the small depositors who put their money in the savings and loan would, in effect, have to pay the fine out of income that normally would have come back to them by way of interest.

Q. But, did you not reply when asked whether this was a case for disposition by fiine at the June 12th meeting, that that would not be possible to be considered because Mr. Edlin's record showed not one but two and possibly three previous convictions and also, difficult with the Corona Savings and Loan in Chicago? A. Yes. Now, I can pinpoint that discussion, which is not quite the way you put it, because my records show that Meyer, this probation man, was interviewed on June 15.

Q. Yes. A. I remember that we discussed this matter immediately prior to that. So that was June 12. I can recall, Congressman, I had the Post Office Inspectors' file in front of me because I had been going over the case, and I had found in there this statement to which I testified yesterday, the fact that he had been convicted twice and had been involved in a savings and loan association at Corona, in

Chicago which had been placed into receivership and that was no criminal aspect to the Chicago thing as I recall.

Q. That was the June 12th meeting? A. As best I can reconstruct it, we talked about his prior record on the June 12th meeting.

Q. I would like to refresh your recollection. You were sitting at your desk, were you not, sir, and you opened the file and made the statement there that there were two and possibly three convictions? A. I doubt that I said "possibly three convictions." Because, as I recall that file, there is no indication of anything criminal on the affair out in Chicago. In fact, I think I actually showed you the file and let you read it.

Q. You stated yesterday on direct examination that both Defendant Johnson and Defendant Boykin were quite surprised A. It is my recollection that you were surprised by the fact that he had had this prior difficulty.

Q. Were you not advised, Mr. Miller, that defendant Johnson and defendant Boykin had been told time and again there had been only the one conviction and that was many years before? A. Yes, you all did tell me that.

Q. Did you not say, sir, that, if that file were incorrect, you did not wish to have incorrect information and that, if it were found to be false, you would like to know? A. Oh, I am sure of it. Any time any record in the Department is false, we want to correct it.

Q. And, as a result of the June 12th meeting, the other meeting referred to on the 15th with Mr. Meyer, was an outgrowth, was it not, sir of the June 12th meeting? A. I do not know whether it was an outgrowth or not. I remember being surprised when Mr. Meyer walked in the office. I had no idea who he was or what he was there for. You all brought him in and introduced him.

Q. And, Mr. Miller, Mr. Meyer has been identified as the probation officer with the Department of Justice, was he

not, sir? A. He was introduced to me as the probation officer. I think he actually worked for the Court.

(The Court) Probation officers are officers under the Administrative Office of the Court and not under the Department of Justice. They are Court officers and not Department of Justice Officers.

By Mr. Johnson:

Q. Well, you were advised that Congressman Johnson and Congressman Boykin desired to come over to see you on the 15th of June, 1961, were you not? A. I was advised by my secretary. I note that there is an itemization on Government exhibit 144, June 14, there is a note in my secretary's book "Congressman Johnson wants a 10:15 appointment tomorrow before 10:30 or between 12:30 or 2:30. Extension 5464. Set for 10 a.m."

I assume my secretary said you called for an appointment and I said "Set it for 10 o'clock."

Q. On the morning of the 15th, Mr. Meyer was brought to your office, is that correct? A. That is right.

Q. At that time it is stated that you had another appointment and could not remain? A. Well, I either said that or I was too darned busy to sit down and take a lengthy statement from him. All I know is that I did not want to sti down and spend my time interviewing him.

Q. And is it not true that at that same time Congressman Boykin and Defendant Johnson stated that they had committee meetings and could not remain? A. I do not recall that. I have no idea.

Q. Well, it is true, is it not, sir? A. It is my recollection that he was taken immediately over to talk to one of the attorneys.

Q. Well, at whose request was he taken over to one of the attorneys? A. I assume I called up one of the lawyers and said "Here is a man that I would like to get a statement

from'' so it would be at my request that the statement was taken, sure.

Q. Would that be Mr. Cassidy? A. Yes.

Q. And did Mr. Cassidy call you, or Mr. Meyer, after they were in Mr. Cassidy's office? A. I do not recall that. They could have. I know I sent him down to Mr. Cassidy.

Q. Well, is it not true, Mr. Miller, that you requested that Mr. Meyer give a full and complete report? A. Oh, sure.

Q. On Mr. Edlin? A. Sure. I mean, I assume I did. I do not remember specifically requesting it, but I am sure that I asked Mr. Meyer to give a statement to Cassidy.

Q. That report, whether it was good or bad, was to be given to Mr. Cassidy as to Mr. Edlin? A. Well, I did not know about Mr. Edlin. I know it was given to Cassidy because we wanted it for our file.

Q. Now, did Defendant Boykin or Defendant Johnson have any knowledge as to what that report would contain prior to the visit to the Justice Department, if you know? A. I am just trying to recall whether or not you told me before you brought Meyer in that same morning when I think you all came in first and brought him in and introduced him.

I do not recall whether you told me that or whether Congressman Boykin told me that Meyer was going to give a great report and prove that there had been no conviction or not. I cannot recall whether you told me that or not.

Q. As a matter of fact, Mr. Miller, is it not true that on the following day, June 16, 1961, you received a communication from me, that is, from Defendant Johnson, asking what the report contained? A. I think you wrote me a letter saying that you would like a report on the matter discussed, or something like that.

Q. Do you have that letter with you? A. I do not.

Q. Do you have the letter there?

(Mr. Tydings) We do not have that.

By Mr. Johnson:

Q. You do recall receiving a letter from defendant Johnson asking for a report? A. My best recollection is you wrote a letter that said that you would—I think it run something like, you would like a report after the review of the matter submitted from the gentleman in Chicago. Something along that line.

Q. Did you give a report then on the findings of Mr. Miller to defendant Johnson or defendant Boykin? A. I do not recall that I did.

Q. But what was your next meeting following that of June 15, 1961? A. June 22. No, wait a minute. June 27, I am sorry.

Q. June 27? A. Yes.

Q. Can you tell the jury whether at that meeting you gave a report as to Mr. Meyer? A. I do not recall whether I did or not, Congressman. I do not recall giving you a copy of the report.

Q. Do you recall what took place at that meeting? A. No, I assume that this meeting, like the other meetings, was more discussion about the case and it involved a lot of discussion about the housing development, but specifically, anything to pinpoint what happened at this meeting, I do not recall.

Q. Now, up to that time there had been nothing improper, nothing irregular as to any meetings with the Department of Justice on behalf of Defendant Johnson or Defendant Boykin that you recall? A. Well, Congressman, that is a difficult question because you are assuming that I knew then the facts about the background.

(Mr. Doub) Just a minue.

(Mr. Tydings) Let him answer. You have asked that question twice, and you are entitled—he is entitled to answer.

(The Court) He may answer the question.

(Mr. Tydings) And answer it fully.

(Mr. Doub) May I ask, Your Honor, this question then. May he state facts which only the jury may determine?

(The Court) He may state an answer to the question which Mr. Johnson asked him.

You asked leave for Mr. Johnson to cross examine. Mr. Johnson is cross examining. He has asked the question and it may be answered.

(Mr. Tydings) Would you read the question to the witness please, Miss Reporter?

(The reporter read the question as follows: "Q. Now, up to that time there had been nothing improper, nothing irregular as to any meetings with the Department of Justice on behalf of Defendant Johnson or Defendant Boykin that you recall?")

(Mr. Williams) I think that question Mr. Johnson has put calls for a legal conclusion and I would like Your Honor to instruct Mr. Johnson to amend it to embrace only Mr. Johnson because I do not think it is a proper question to ask about other defendants in the case. I am not objecting to the question but I would like Mr. Johnson to conduct his cross examination for Mr. Johnson and not embrace other defendants within what I think calls for a legal conclusion.

(Mr. Tydings) Your Honor, Mr. Williams sat still the first time the same question was asked of this witness, embracing the same Congressmen. We did not object at that time. We do not object to the question at this time but we do object to any effort to restrict or not to permit the witness to answer the question fully.

(The Court) The witness may answer the question by

calling attention to any facts which have come to his attention since that meeting which he believes to be material and the Court will instruct the jury later as to the law.

(The Witness) Well, as I say, at the time we had any of these meetings, or telephone conversations, I had no knowledge of the facts that I have subsequently been told, that you apparently were receiving legal fees or at least receiving checks from either Edlin or Robinson.

So, if you want me to answer the question about the facts as I now know it, I would have to answer it one way.

By Mr. Johnson:

Q. Mr. Miller, may I ask you, you say you were told that; is that correct? A. That is right.

Q. Of your own personal knowledge, do you know of one check that defendant Johnson received from Mr. Edlin? A. Congressman, I do not. I did not investigate this case. I do not have any knowledge of any checks or any payments but, as I say, I have been informed that this is in fact the case.

Q. I asked you, though, personally, whether you knew of your own knowledge any check from Mr. Edlin or from any savings and loan association? A. I have never seen any such checks and you never informed me of the existence of any such checks.

Q. So, then, you have no personal knowledge? A. Of course not.

Q. Only what you have been told? A. Yes, which is the same thing, basically, about every case in the Department. If I had personal knowledge, I would have to investigate every case, myself, and that is out of the question.

Q. Yes, because you have a good many thousands of cases? A. Well, there are more than enough. Let us put it that way, Congressman.

Q. Now, Mr. Miller, let us get down to the meeting on

June 27, 1961, was there anything unusual that happened at that meeting? A. I do not recall anything unusual happening at that meeting, Congressman.

Q. Do you recall saying to defendant Johnson, "I would like your thoughts as to certain features of the indictment? Can you come over to see me some weekend, preferably on a Saturday or late some afternoon when there is no interference, just the two of us, that you can give me some ideas as to your thinking in this case?" A. Congressman, there is no question but that I offered to sit down with you. I offered to prepare myself to sit down with you and go over this case in great detail.

Now, my recollection, that probably occurred at the meeting of August 7 because we met for two to two and a half hours on August 24. I offered to sit down with you and go over the facts of this case because it is important to me that representatives in the Congress of the United States feel that the Department of Justice is not prosecuting the cases unfairly.

Q. I did not ask you whether you offered. I asked if you did not make the request of Defendant Johnson to come to your office? A. I will assume that I did. I do not specifically recall but I will agree with you that I did make the request, because I have an interest when someone challenges whether or not a prosecution is a valid one, I want to make sure that they understand the facts and the why and the wherefore of the prosecution.

Q. And did you not go further and say "I want to see you alone, just the two of us"? A. I could have. I do not really recall.

Q. And, as a result, did I not telephone, did not defendant Johnson telephone and the meeting was set up for August 24th? A. My recollection is that we decided right around the beginning of August. Now, whether it was August 7 when I saw you, or whether it was, as you seem to indicate, at the June 27th meeting, I have no independent recollec-

tion, but I do know that I wanted the meeting set far enough in advance because I knew it was going to take a substantial amount of time for me to review the case in detail so that we could discuss it intelligently.

Q. Now, you do recall that on August 24, there was a rather late afternoon meeting? A. That is frankly how I can pinpoint it because you came in alone at 5:28.

Q. And can you tell the jury that that meeting was pursuant to your request for a late afternoon meeting, or a Saturday meeting when there would be no interference? A. I will accept what you say, Congressman.

Q. Now, at that meeting, did you not ask Defendant Johnson certain legal interpretations as to the criminal indictment? I do not recall I asked you any legal interpretations. My recollection of that meeting is that we went down the legal issues point by point, and I stated the side of the United States Government and you indicated the side of the defendant and we went down the five or six or seven various issues that were in the case.

Q. And was it not a very general discussion? A. No, sir. This was a specific discussion, point by point.

Q. But generally, as to facts and as to law? A. Well, the facts we got pretty specific about the facts and, as to the law, I am not sure that I am such an expert in mail fraud that we could do more together than talk in generalities.

Q. Mr. Miller, may I ask you whether you did have all the facts, that it is not true as you testified on direct examination yesterday, that there was concern on your part as to the payment of the first dividend by First Colony whether it had been paid from earnings or whether it was paid from their capital structure? You recall that, do you not, sir? A. I remember that specifically, because of this reason Now, we had a discussion of whether or not the First Colony Savings and Loan Association was paying income or paying dividends to its depositors, either (1), out of capital which would be improper, or (2) out of the deposits that these

small depositors were coming in and putting in with savings and loan association, and there had been in fact, no earned interest. You will recall, I am sure, the fact that the only income that that corporation had, if my recollection serves me correctly, they had the so-called Friel mortgage which was in effect sold to it by First Continental which was another savings and loan association; the fact that they had actually capitalized expenses and then used those expenses and then, as the income came in, said "Now, we have income out of which we can declare a dividend properly," and it also seems to me that the facts were that they had legal advice that it would be improper to declare dividends out of anything but earned income. And that was one of the reasons we discussed this, why they went through the wash transaction with the Cassell Development, and wrote the same check back and forth the same day for $150,000.

Q. Now, is it not true that you desired more information on that transaction, bank transaction dealing with the Cassell matter? A. Well, you sent me later, I think shortly after the meeting, you sent me a copy of the bank statement from the First Colony Savings and Loan Association which showed that, as of the date of the Cassell $150,000 check and its return, there was money in the bank account to honor the $150,000 check but at the same time there were, according to the check book—you see, they had all these checks written and outstanding. If all these checks had been honored, there would not, in fact, have been sufficient funds in the bank to honor that check and you, as I recall, sent me a copy of the bank statement of the First Colony Savings and Loan Association and you sent one other document.

Q. And, Mr. Miller, that was after August 24, was it not, sir? A. Yes, that was, Oh, I would guess it was about—within a few days. Because I remember I subsequently wrote—you had raised the issue, too, as I think we discussed yesterday, you had raised the issue on the fact you kept pointing out that there—that nobody had lost a cent on this, nobody had lost a cent and without a loss, wouldn't that,

as a matter—I cannot recall the exact language you used, but you raised the issue that no one had lost any money and so I subsequently wrote you a letter, citing a case which pointed out that even though no one had lost money in a fraudulent scheme, nevertheless the case was well brought.

Q. Now, I want you to know, sir, whether at that meeting on August 24, 1961, that following our discussion if Defendant Johnson did not at that meeting state that Defendant Johnson was not entirely familiar with all of the transactions dealing with the defendants, do you recall that? A. I do not recall. He may or may not have said that.

Q. And do you recall, on the August 24th meeting that Defendant Johnson made the suggestion then that any further review should be with the attorneys representing, that is, of record, the attorneys of record of Mr. Edlin and First Colony? A. Congressman, my recollection of that is at variance with your recollection. My recollection is, and I don't recall at which meeting it was, but right, you will recall that when the conversation was over or towards the end of the conversation, I told you that I thought we had a pretty good case and we were going to go ahead with it and it was either shortly thereafter or right then, I do not remember, you suggested, well, how about an independent review? Whether or not you suggested that it be with the attorneys for the defendant, attorneys of record for the defendant, I do not recall, but I do know you wanted the case reviewed because you still felt that there might have been "vendetta" involved, or prejudice involved in bringing the case so you wanted in effect another review of the case and I said, "All right, I will be glad to set it up."

Q. It could have been, Mr. Miller, that it was at that August 24th meeting that the suggestion was made by Defendant Johnson? A. Now, wait a minute. Let us see if I can—well, it could have been. I could not deny it. It might have been at that meeting.

Q. And didn't defendant Johnson at that time tell you that Mr. Edlin and the First Colony—the others had their

own counsel? That this was a matter for further review by them and you thought it was a good idea? A. Well, I knew that they had independent counsel. I had been talking to Mr. Tydings about this case. I mean, you may have told me they had counsel but it was not news to me, Congressman.

Q. But did you not agree, Mr. Miller, that that would be the procedure to pursue without discussing further with Defendant Johnson the case? A. I would agree—well, I will leave off the last part. But I would agree with you. The only reason I have any hesitancy in agreeing with you on this is that it is my recollection that it was Congressman Boykin who, after seeing the Attorney General, called me and said, "Would you talk to G. C. A. Anderson" and then I notice there is a note in my book "G.C.A. Anderson was in that same afternoon."

Q. Go ahead and finish. A. In that same afternoon and he came in as the attorney for J. Kenneth Edlin and he was going to—he wanted to participate in this so-called independent review, or was going to or would I agree to have one and I said, sure.

But the idea, I do not recall when the idea was suggested, whether it was at the August 24th meeting. Whether Congressman Boykin suggested it to me. I know that he called and asked me if I would see G. C. A. Anderson. That is all I know.

Q. But you do not deny, do you, Mr. Miller, that on August 24 at the meeting referred to with Defendant Johnson, Defendant Johnson could have suggested to you at that meeting that the discussion following should be with the counsel for Mr. Edlin and for First Colony? A. Well, I will be as fair as I possibly can. I will agree that you said that.

Q. And, as a result, were there not meetings to follow with Mr. Anderson, the attorney for Mr. Edlin and the other attorneys in which Defendant Johnson was not pres-

ent? A. Oh, yes. We had a meeting on October 20. Actually, what happened Mr. Hargrove reviewed the case and he came over to my office on October 20, and Mr. Anderson was there, Mr. Robinson I recall was present. Mr. Kossack, the head of my fraud section.

Q. You are speaking now on October 20? A. Yes, this is on October 20.

Q. Did you not have a meeting with Mr. Anderson prior to October 20, 1961? A. Yes, that is the thing I referred to. I had a call from Congressman Boykin and he wanted to know if I would see Mr. Anderson. And that afternoon Mr. Anderson came in. And, as I recall, we may have discussed the case generally and he asked if we would have a review meeting and I think maybe at that time, I may have told him about the independent review. I really do not remember that too well. But he came in, I remember. He came in and I think the basic purpose was to set up or to see if I would set up a future meeting after this socalled independent review had been completed.

Q. So, after August 24 meeting, which you did not deny that Defendant Johnson had suggested that that be followed rather than Defendant Johnson to be present, there were meetings with counsel for Mr. Edlin for further review of the case, is that correct? A. Oh, yes.

Q. At that those meetings, neither Defendant Johnson nor Defendant Boykin were present, is that correct? A. You all were not present at the meeting with Anderson. That was the one meeting and the October 20th meeting. No, you were not present at that meeting, either. That is correct.

Q. And that continued until October 20. The final meeting was October 20? A. Yes, that was the meeting where the indepedent review that you wanted was made and the presentation was made in my office and at the conclusion of it we sent a memorandum to the attorney general that the case would be prosecuted.

Q. Now, in September, do you recall that Defendant Johnson was at your office with Defendant Boykin, do you recall a visit during September? A. Yes, September 14, Congressman Johnson and Congressman Boykin were in.

Q. Would you tell the jury—

A. And September 21.

Q. Would you tell the jury what occurred, if you recall, on that first meeting in September in which Defendant Johnson and Defendant Boykin came in to your office? A. Congressman, I do not really have any firm recollection of what went on. I do know that very probably the Cassell development was discussed because I know I asked Tydings for a report on the progress of the Cassell Development and he sent me over a report which was some time in this period. So, I assume that that was one of the subjects for discussion.

Q. Do you recall the Attorney General getting in touch or communicating with you on or about that time in respect to a visit that Defendant Johnson had with Attorney General Kennedy? A. Well, as I recall the way that ran, after the August 24th meeting and you understood that I felt that we should go ahead with the case, the next thing that happened there were, either you or Congressman Boykin went to the Attorney General and I know I got a request about September 1 or 2nd for another memorandum on the facts of the First Colony case, which I prepared, and sent upstairs on about September, I do not know, the first week in September some time. So that I know that you all had been back to see him. I do not know that but the request came down to me for another memorandum and I sent back another memo.

Q. Do you have knowledge as to what the Attorney General's testimony was in respect to a meeting with the Attorney General on September 7, 1961 with defendant Johnson? A. I do not.

Q. Well, to refresh your recollection did not Defendant

Johnson come to your office in September in respect to what Defendant Johnson termed were false rumors being circulated by Mr. Tydings in his district? A. Oh, yes, but I thought that was earlier than that. I thought that was earlier than September. Frankly, I thought that that was back in August, Congressman. The reason that I pinpoint it there, is because I remember I was testifying during this period of time on the Department of Justice legislative progress and I was up there quite a bit. I remember I was going up. You see, on August 4, on this exhibit "Call Congressman Johnson to postpone the 11 o'clock appointment." You had asked me to come to your office as I recall, and you told me at that time that you had heard from, what was it, a publisher in Elkton, Maryland, that Joe Tydings was saying that you all were fixing the case with the Department of Justice, and I said I could not believe that Joe Tydings would do such a thing but I called him. I place that in August, now I may be wrong.

Q. Did you say—would you say the Attoreny General was wrong if he said it was in September? A. I would not say the Attorney General was wrong.

(The Court) The witness was carefully instructed not to check on the Attorney General's testimony and you may ask him what he knows and you may argue the facts based upon what the witness has said.

(Mr. Johnson) Yes, but, Mr. Miller, you do recall a meeting with Defendant Johnson at which Defendant Boykin was present specifically to talk with you about a rumor being circulated in the District represented by Defendant Johnson?

(The Witness) I remember a meeting but I recall it as being with you and not with Congressman Boykin and I recall specifically what the rumor was.

By Mr. Johnson:

Q. And the rumor as you said was that there had been an attempt on the part of Defendant Johnson and Defendant

Boykin to interfere with Justice and that Mr. Tydings had made the statement, is that correct? A. That is right, and I called up and checked and found it was not true. The fact that the rumor had been—

Q. Did not Defendant Johnson say at that time that he, Defendant Johnson, had always made clear to you that there would be no interference with the Department of Justice in this particular case? A. I am sure that you did, Congressman. You made the statement many times during the course of these meetings.

Q. And did you not say that you knew that to be true and that you voluntarily told Defendant Johnson that you would call Mr. Tydings? A. Well, I certainly said that I would call Mr. Tydings and I did call Mr. Tydings.

Q. And you did? A. I did and it is my recollection I reported back to you to say that the incident had not occurred.

Q. And that is your testimony that you did report back to Defendant Johnson that the incident had not occurred? A. Yes, I am pretty sure I talked to you about it. Because—yes, that is my best recollection.

Q. Now, in the direct examination yesterday you spoke that you did not know which district Defendant Johnson was representing in Congress at the time of these visits? A. No, I do not think I testified to that, Congressman.

Q. Did you not testify that you were under the impression or that you had been given the impression that Defendant Johnson represented Southern Maryland at the time of these conferences? A. My impression was that these housing developments that they were talking about were in your district and that was the impression I got, either intentionally or unintentionally.

Q. Was it not true, sir, that not on one meeting but many that we were speaking of Southern Maryland, Waldorf? A. Right, Southern Maryland, Waldorf, Maryland, correct?

Q. And did you not know, sir, that Southrn Maryland is not in the First District of Maryland, what we term the Eastern Shore? A. I am sorry to say I did not.

Q. How long have you been living, sir, in and around Washington? A. I have been living in and around Washington since 1946.

Q. And in Maryland? A. I have been living in Maryland for eight years, probably or ten, maybe.

Q. You knew, did you not sir, that defendant Johnson lived on the Eastern Shore near Ocean City, Maryland? A. I think you told me you had a farm there on the Eastern shore.

Q. Mr. Miller, is it not true that during July defendant Johnson spoke of your visiting down near Ocean City at the farm? A. Yes, you wrote me a couple of letters. You wrote me a letter and asked me if I would not come down and bring my wife and spend the week end. I did not reply and then you wrote me another letter and I eventually wrote back and said that my schedule was too busy and I could not come.

Q. Is it not true, sir, that the telephone conversation during July for the most part was in reference to whether or not you would be able to get away from Washington, that particular one on July 14? A. I certainly do not recall that. My recollection is that it was—here is what I think. Didn't you call? No, I just do not remember. My recollection is that it was handled by letter. You wrote me a letter. I remember I did not get around to answering it for about a week and then you wrote another, a reminder that you received my letter of such and such—do you have the letters?

(Mr. Tydings) We have the letters here. Perhaps we had better have them marked in evidence at this time.

(The Court) If the cross examination is going to take more than a couple of minutes more, we had better take our morning recess. The jury may take a recess.

(Short recess.)

(The Court) Bring the jury in.

(Mr. Tydings) If Your Honor please, the Government would like to have marked and offered into evidence at this time two letters, one dated July 14, 1961, written on the stationery of the Congress of the United States from Thomas F. Johnson to Herbert J. Miller, Jr. A second letter written on the stationery of the Congress of the United States dated July 21, 1961, to Congressman Thomas —from Congressman Thomas F. Johnson to Herbert J. Miller and finally an answer dated July 22, 1961 from Herbert J. Miller to Congressman Johnson.

I ask that these be offered into evidence and I would like to read them to the jury.

(Mr. Johnson) I will be happy to read them to the jury.

(The Court) Mr. Johnson has the witness. If you want to offer them on redirect, you may, but if you offer them now, Mr. Johnson may use them as he likes.

(The Clerk) Government's Exhibit 155 marked in evidence.

(Government's Exhibit 155 marked in evidence.)

By Mr. Johnson:

Q. Mr. Miller, I believe before the recess we were speaking about the month of July, that Defendant Johnson had referred an invitation for you and Mrs. Miller to visit the Eastern Shore of Maryland.

Q. Yes. I do not remember the month, but whatever the letter says.

Q. And at that time, Mr. Miller, there had become a very friendly relationship between the defendant Johnson and defendant Boykin and you, Mr. Miller? A. They were very friendly without exception.

Q. In fact, is it not true that the meetings with you at

your office, you were always very courteous with coffee and with very warm hospitality? A. Thank you very much. I hope so.

Q. And during those conversations, you spoke about the hard work that you were doing, the burden that was on you with your new duties? A. I assume I probably did. I tell everyone who will listen.

Q. And, in response to that, did not defendant Johnson say that he had a farm on the water and a boat and for you to come down? There would be no work and no business transacted? A. I do not recall whether you said that in the letter or verbally.

(Mr. Johnson) If the Jury please, the Government has offered in evidence and referred to the letter of July 14, 1961, to the Honorable Herbert J. Miller, Jr., Assistant Attorney General, Criminal Division, Department of Justice, Washington 25, D.C.

"Dear Jack:

"I am wondering if Mrs. Miller and you could join us for a weekend at the farm near Ocean City during the present month. No business, just a couple of days of relaxation on the boat and in the surf.

"With kindest regards, I am

"Sincerely yours,

"Thomas F. Johnson"

The second letter is dated July 21, 1961.

"Honorable Herbert J. Miller
"Assistant Attorney General
"Department of Justice
"Washington 25, D.C.

"Dear Jack:

"The past week I extended an invitation for Mrs. Miller and you to join us at our farm near Ocean City for a week-

end during the present month. I am wondering if you received my note.

"With best regards,

"Sincerely,

"Thomas F. Johnson,

"Member of Congress."

Next is a letter dated July 22, 1961.

"Dear Congressman Johnson:

"I appreciate very, very much your very kind offer to relax at your farm. The press of trying to be an accomplished public servant has the unfortunate consequence of not leaving even weekends free. It was very thoughtful of you and I only hope that, assuming I still hold this job next summer, the offer will be renewed.

"Best regards,

"Sincerely."

By Mr. Johnson:

Q. Mr. Miller, I will go back just for a moment to the meeting on June 15, 1961, in which we referred to the previous meeting on the 12th of June 1961, where you had a report showing more than one conviction for Mr. Edlin. I ask you, sir, in fairness to Mr. Edlin, was it not true that that report was found not to be accurate; that he only had the one conviction? A. Yes. Actually there was the one conviction. The first case that was mentioned, which was in the late thirties, as I recall, apparently he had been tried and acquitted on that charge, so the record was inaccurate, because it said he had been convicted, and in fact he had been acquitted.

(Mr. Tydings) I am still having trouble hearing you, Mr. Miller.

(The Witness) I will repeat that. The record showed that the first case which was in 1937 or 1938—I forget the

exact date—had resulted in an acquittal rather than a conviction.

By Mr. Johnson:

Q. Which was not against his record? A. Which was not against his record.

Q. Now, on direct examination yesterday, Mr. Miller, you spoke of being advised of the difficulty with FHA approval in respect to the Southern Maryland property. Do you recall your conversation? A. I had just a vague recollection of that that you made some comment to the fact that there was some problem with FHA financing.

Q. And, is it not true, sir, that FHA, you were told that FHA had to approve the lending institution as to the loan on Charles County? A. Well, I assume that would be true. I do not know whether you told me that or not.

Q. And is it not true, Mr. Miller, that throughout practically all of the conferences with you, it was trying to solve the difficulty, the financing of this tract of land of Charles County? A. Well, I certainly was not trying to solve the financing difficulties of these land tracts, no.

Q. You were not? A. No. You all were coming in and saying that these reasons, representing these reasons as to show that is the basic reason, as I understood it, why you wanted a review of the indictment.

Q. Well, did you make any effort or give any assistance in helping defendant Johnson and Defendant Boykin try to solve the problem with FHA in respect to financing of the project? A. I have no recollection of calling FHA or looking into that at all.

Q. Do you recall a conversation with Defendant Johnson about Mr. Edlin being alledgedly connected with First Continental and therefore First Continental would not be approved by FHA as a lending institution? A. I do not remember that specifically but that probably was—that probably—my recollection is and this is really vague

because I think it was towards the first. I do not think there was ever much stress put upon the FHA but at some time it was mentioned that there was a problem getting FHA financing.

Now, I will assume with you that one of the problems might have been the fact that Mr. Edlin was connected with one or the other of the savings and loans and this might have been why they would not approve the project. I really do not know.

Q. Do you recall one meeting with you in which defendant Johnson and defendant Boykin spoke at some length as to whether you had any suggestions as to meeting this difficulty with FHA in not approving the lending institution? A. No, I do not recall that.

Q. Do you recall the discussion that First Continental Mortgage Company was the owner of the B stock of First Continental Savings and Loan? A. Well, I do not know that I recall conversation on that point. I certainly recall finding that out when I went in to the file in detail, that actually the First Continental was, as I recall, the holder of either the A or B stock, I have forgotten which.

Q. Well, Mr. Miller, do you recall, in an effort to be of assistance, of making these suggestions that perhaps a voting trust could be set up for the B stock of First Continental Mortgage Company? A. No, I have absolutely no recollection of that at all.

Q. You do not remember that. Now, Mr. Miller, yesterday the government offered into evidence Government exhibit 144 which is what you have before you? A. I have it before me, yes, sir.

Q. Yes. Now, on direct examination did Mr. Tydings examine you as to all of the items that appear in that exhibit? A. No, my recollection is he left out the last two. In 1961 on the grounds that they were not within the indictment period.

Q. But it is in evidence with the exhibit reference? A. Yes, it is admitted in evidence.

Q. Referring to the exhibit, what—I will withdraw that first. You say that Mr. Tydings objected to the last two because—

(The Court) He did not object to it. He did not read it.

(Mr. Johnson) The witness has testified he objected to it because—

(The Court) The witness is not running this trial, the Court is. Mr. Tydings said he would not read that to them. It is in evidence; if you wish to read it to them, you may do so.

(Mr. Johnson) May I have the last question and answer of Mr. Miller.

(Question and answer were read by the reporter.)

By Mr. Johnson:

Q. You remember that question and answer? A. Yes.

Q. Referring to the exhibit, the item under date of December 11th and 12th, were you asked as to those items? A. I was indeed, yes.

Q. Now, the item under December 27th and 28th, is not that in the same month? A. It is.

Q. Now, would you tell the jury what on December 27th does that disclose? A. Reading from Exhibit 144, "December 27th. Call Congressman Johnson 180/5464."

That means I called you.

"Out touring district. A. A. Buarque will be in tomorrow."

December 28th, 12:15. I called A. A. Buarque of Congressman Tom Johnson's office; and at 12:55 Mr. Buarque called back and left the note that Congressman Johnson can see Miller in the Congressman's office at 3 p.m. Tuesday, but if urgent at 3 p.m. tomorrow (Friday).

Q. Were the calls that you made on December 27th and 28th in response to any request that Defendant Johnson had made to you? A. No.

Q. They were entirely your calls? A. They were entirely my calls.

Q. Now, can you tell the jury whether or not on January 3, 1962, you did meet with Defendant Johnson? A. On January what?

Q. Third. A. Well, I certainly met with you right in that period. I will assume it was January 3, yes.

Q. Where was that meeting? A. That meeting was in your office.

Q. Do you remember the time? A. I do not recall the time, no.

Q. If I tell you that it was at 3 p.m. in the afternoon would that be about the correct time? A. I will accept your recollection.

Q. Now, who was present at that meeting on January 3, 1962 at Defendant Johnson's office in Washington? A. Just the two of us.

Q. Now, is it not true, Mr. Miller, that at that meeting you stated that there had been complaints about a speech and about visits to the Department of Justice? A. Well, my recollection is, I do not recall the speech, but I may have mentioned that but what I came down there to tell you as is the policy of the Department, that we had sufficient evidence to warrant the commencement of an investigation with respect to your activities with the Department of Justice. And that I was frankly, very sorry myself, that I had to tell you this but in view of the evidence that we had received, we had no choice but to commence an investigation and we were going to do so.

That I was hopeful that and expected, I may have even said that I expected, that the investigation would come to nothing.

Q. Now, at that meeting was there not further discussion as to the legal work that defendant Johnson had done in respect to the land companies? A. You may have mentioned to me that you did legal work for the land companies, yes.

Q. Well, as a matter of fact, Mr. Miller, were you not told that Defendant Johnson represented—

(Mr. Tydings) Your Honor, I do not object when he got outside the indictment period but Congressman Johnson is phrasing each question so that he, in effect, is testifying before the jury here. Now, he will have, if he elects, an opportunity to testify and present facts which he feels are pertinent to the case but I do not think it is proper cross examination when you get to an area outside of the indictment period No. 2, and which merely affords him an opportunity to testify when he cannot be cross examined and, therefore, I object to any further questions along this line after the indictment period.

(The Court) I do not see at the moment why things which Mr. Johnson may have told the witness after the first of January, 1962 have any bearing on any proper cross examination of any point that the witness has testified to. I will be glad to hear from Mr. Doub, if you want. Of course, if you want to make him your witness and open your defense, you may do so.

(Mr. Doub) I would say this, Your Honor, without objection from the government, the witness has testified to part of that conversation. I think that we are entitled to put in the full conversation. If Your Honor rules otherwise, I would like to come to the bench and make a full proffer of proof.

(The Court) Tell me what you propose to proffer.

(Bench Conference.)

(Mr. Doub) We proffer to prove, Your Honor, that after the statements that the witness has just testified to that he had started this FBI investigation, that he had then

said that he was embarrassed to have to tell Mr. Johnson this. Mr. Johnson replied "I appreciate your coming over here. I appreciate your embarrassment. You certainly know there was no pressure and that I did nothing improper in the Edlin case."

Mr. Miller then said to Mr. Johnson, words to this effect—"There is nothing for you to concern yourself about. It is merely routine and I know everything is all right."

* * * * * *

[Tr. 2222-2239]

CROSS EXAMINATION

By Mr. Williams:

Q. Mr. Miller, I believe that you testified on direct examination that it was on April 22 of 1961 when you went up to the Attorney General's office at the tail end of a meeting which he was having with Mr. Boykin and Mr. Johnson in his office. A. I think that was on cross examination.

Q. Was it on cross examination? A. I testified that I went up and I think it was April 12. Unfortunately, you see, it is not on this list.

Q. We have an exhibit here that I think might help Mr. Miller, Mrs. Zielinski, No. 108. A. Yes. I assume that this was the meeting of—after April 12, even though this exhibit does not show Congressman Boykin being present. But the reason, I will give you how I place it because I know I was not at the first meeting which is listed here, March 25 where Congressman Boykin and Congressman Johnson were present. But, I am quite positive I went up to a subsequent meeting shortly after the March meeting and got in just at the tail end of the meeting.

Q. Does it refresh your recollection that when you went to that April 12th meeting at the tail end of which you entered— A. Yes.

Q. —that Mr. Boykin was not present at that meeting? A. Mr. Williams, my best recollection is that Congressman Boykin was present and Congressman Johnson, both, were present. I am really quite positive of it.

The only problem I have is which meeting it was and yet this is probably the only one it could have been.

Q. Let us see if we can reconstruct it this way, Mr. Miller. Was it the Attorney General who introduced you to Mr. Boykin the first time, or was it Mr. Johnson who introduced you to Mr. Boykin? A. My best recollection is that I was introduced to both of them in the Attorney General's office at this meeting—the date of which I assume was April 12.

Q. Could it have been the March 25th meeting, Mr. Miller, to which you were called? A. I am quite positive it was not the March 25th meeting because (1) the memorandum was not discussed at the meeting I attended and it was quite apparent to me that the two Congressman had been in to see the Attorney General before on this matter.

So that my best recollection—I know I went up to the meeting. I am sure it was not March 25, therefore, I assume that it has to be the April 12th meeting.

Now, the reason, one other reason that I am quite sure it was that is because I think that I had been introduced to Congressman Johnson when he came in to see me on April 17 alone and the only place I could have possibly met him would have been up in the Attorney General's office.

Q. On May 3rd when Congressman Johnson and Congressman Boykin came in to see you, to the best of your recollection as of today had you met Congressman Boykin before that meeting? A. Yes, my best recollection is that I did know him and that I must have met him at that April 12th meeting.

Q. Now, I think that under cross examination by Mr. Johnson, you said that it was on April 17 that there was

called to your attention the fact that Mr. Edlin had some information to contribute with respect to the so-called some information to contribute with respect to the so-called Dranow treasury note? A. Mr. Williams, I think my testimony was that that information was called to my attention on May 3.

Q. May 3. A. Yes. Because, you see, the following day, I got a letter.

Q. Right. A. —from Congressman Boykin and he attached to it an exhibit which was this statement—was it by Robinson, concerning Edlin's relationship.

Q. Does that help you, Mr. Miller, in trying to reconstruct these meetings in determining whether that was at the first meeting at which you had seen Mr. Boykin or at a subsequent one. I will rephrase it. Did Mr. Boykin in the first meeting which you participated in with him tell you that Mr. Edlin had some information on the so-called Dranow treasury note? A. Yes, the first time I met Mr. Boykin he brought up this memorandum.

Q. Now, that was on May 3rd, then, was it not? A. That is right.

At the first time that I met Mr. Boykin in my office, let me make this sure. Yes.

Q. And then on the very next day, May 4, he sent to you, did he not, a memorandum regarding the so-called "Dranow treasury note"? A. Yes.

Q. That was May 4? A. Right.

Q. That was after the meeting in which he mentioned to you the so-called Dranow Treasury note? A. Yes.

Q. And he mentioned the treasury note the first time you saw him, did he not?

(Mr. Tydings) Do you mean in his office or upstairs in the Attorney General's office?

(Mr. Williams) At any time?

(The Witness) I do not know. I have gone through, trying to place this date so much, Mr. Williams. My best recollection is that I did meet him upstairs. I know it was not at the March 25th meeting and when he—and I am almost convinced that I knew him when he came in on the third.

By Mr. Williams:

Q. But, in any event, in your role as Assistant Attorney General in charge of the Criminal Division you found out that prior to the time that he told you about Edlin and the Treasury note, he had made that disclosure to the Attorney General some time before? A. Yes, he had told the Attorney General about that some time either in March or prior thereto, it is my understanding, and had supplied one of the Attorney General's assistants with a copy of the memorandum which he furnished to me subsequently on May 3rd.

I did not know of the existence of that memorandum.

Q. But you, sir, ascertained, did you not, that that information was given to the Attorney General or one of his representatives, prior to the very first meeting that appears on any of these exhibits, either 108 or 144? A. My recollection is that there is a letter from Congressman Boykin which is dated about the middle of March, maybe March 17 in which he refers to the fact that he is either transmitting or has transmitted this memorandum to the Department and that would be prior to the March 25th meeting.

Q. What he transmitted to you? A. Well, actually it was to Mr. Sheridan.

Q. Well, to you on May 4? A. Yes.

Q. If I may have No. 154. Thank you, Mrs. Zielinski.

Was a memorandum signed by Mr. Robinson regarding the Dranow matter? A. That is correct.

Q. Now, I direct your attention, Mr. Miller, to the first sentence in that memorandum and ask if it refers to a so-called Sun Valley project, Sun Valley, Florida? A. Sun Valley project.

Q. Now, that was a matter, Mr. Miller, on which you had considerable information as a result of a case in which you had participated prior to your coming to the Department of Justice, is not that right? A. Haven't we both?

Q. So you knew about that, did you not? A. I did. I knew about the Sun Valley project.

Q. Yes, and Mr. Sheridan had been given, if you know, sir, the memorandum, a copy of which you hold in your hand, back in March because his primary engagement was with matters affecting Hoffa and the Teamsters Union, is not that so? A. Well, I cannot testify of my own knowledge that this memorandum was delivered to Sheridan but I will agree with you that it was because I have looked at the file and I am quite positive he got this particular memorandum on about the 17th.

Q. That would be given to Mr. Sheridan or was given to him because he was primarily engaged in investigative matters involving the Teamsters Union and Hoffa, is not that so? A. Well, he is involved in such matters, yes.

Q. Now, thereafter, when you had occasion to assign two attorneys to interview Mr. Edlin, which I believe you said was on May 22, Mr. Miller— A. Yes, that is my best recollection.

Q. —do you recall to whom you sent them? A. Let's see now, that would probably be Bill Ryan and Tom McTiernan.

Q. Are they attorneys who are working in the same section of the criminal division as Mr. Sheridan works? A. Yes.

Q. Do they work under the supervision of Mr. Sheridan? A. Yes.

Q. And they are primarily concerned with matters affecting Teamsters Union activities and Hoffa? A. That is correct.

Q. Now, at the time that Mr. Meyer came into your office, which I believe was on June 15, 1961, is that correct? A. Yes, that is my best recollection.

Q. And you were otherwise engaged to the point that you could not spend time talking to him, you sent him to be interviewed by Mr. John Cassidy, is that correct? A. Right.

Q. And, is not Mr. Cassidy likewise engaged in the same investigative matters in which Mr. Sheridan is engaged? A. Yes, he works with Walter Sheridan.

Q. He works directly under Mr. Sheridan? A. Yes, he works with Mr. Sheridan.

Q. And when you say "he works with Mr. Sheridan," again it is on an investigative matter relating to the Teamsters Union and Hoffa, is it not? A. Well, actually, of course, it goes beyond investigation because, as the cases arise, sometimes we send the attorneys out to try the cases.

(Mr. Tydings) I am sorry. I can't hear you.

(The Witness) It is more than investigation because when a case arises, many times we will send the lawyers out to prosecute the case and they actually are trying cases.

If you are making a distinction between investigation.

By Mr. Williams:

Q. Investigation and prosecution of cases involving the Teamsters Union and Hoffa, is that not so? A. Yes.

Q. Now, on June 15, when Mr. Meyer was interviewed by Mr. Cassidy, it was for the purpose of preparing a report for you, was it not? A. Yes.

Q. And he did, in fact, did he not, on June 16 of 1961, prepare a report for you? A. He prepared a report. I will accept your timing. I do not know what date it was prepared. He did prepare a report. I do not know the date.

Q. May I have Government Exhibit 125 for identification, Mrs. Zielinski?

Without going into the contents of the report, Mr. Miller, I am going to hand you Government Exhibit 125 which has been marked for identification and simply ask you whether that is, in fact, the report which Mr. Cassidy prepared for you on June 16 of 1961? A. I assume that this is it. The only reason I hesitate, I thought that there was a heading on the original but this sounds familiar. I thought there was a memorandum.

(Mr. Tydings) The Government is satisfied that that is the document, a copy of it, which Mr. Williams is referring to.

(Mr. Williams) I would like to establish Mr. Miller's satisfaction on that score.

(Mr. Tydings) I am just trying to be helpful.

(The Witness) I assume it is. The only reason I have any hesitation, I thought the one which I had, had a "To and From" on it. I have skimmed through it and it appears to be a copy of it.

By Mr. Williams:

Q. So that, as of June—I should ask you to strike that last start of a question.

You did read this at the time, sir, that Mr. Cassidy sent it to you, is that correct? A. I would read that at some time in that period, yes.

Q. And, as I understood your cross examination by Mr. Johnson, pursuant to the request of the Attorney General in April of 1961 you had reviewed what I will call, the Edlin file for purposes of easy identification, and had written him

a memorandum on the case? A. I did not review the file and prepare the memorandum. I had asked one of the attorneys in the Criminal Division, I think it was Jim Knapp, to prepare a memorandum and I think that that was prepared about April 10.

I may or may not have looked at the file but I know that I had seen that memorandum because I had sent that on up to the Attorney General.

Q. I take it, Mr. Knapp analyzed the case and wrote a brief report, giving his evaluation of the case from the point of view of its strength or weaknesses as the Government evaluated it? A. Yes. I will agree with that. I do not remember exactly what was in it but actually it was a summary of the case, what the facts were, what the charges were.

Q. You read that, I take it, Mr. Miller, before you submitted it to the Attorney General? A. Yes.

Q. So that, certainly by June 16 of 1961, you had, what I will characterize—and you correct me if I am in error—a fairly good working knowledge of the Edlin case, and a fairly good working knowledge of Edlin's background as it had been developed through Mr. Meyer by Cassidy? A. Well, it is very difficult when you say "working knowledge," Mr. Williams, because I did not actually get down to the basic facts of the case and go and actually read the report in toto.

Q. Right. A. Until later. I remember, when I started reading the report before the meeting of June 12, I was in the middle of the—it was a report of the Post Office Inspector, and that is where I came across this statement about Mr. Edlin's background, if you will. But, really, it was not until prior to August 24, the August 24th meeting with Congressman Johnson that I had actually taken enough time to go through the file to familiarize myself sufficiently with the facts and the law that I could go into the case.

Q. When you did familiarize yourself thoroughly with the file, you had a conference with Mr. Johnson on August 27 of 1961, at 5:28 p.m., I think it was? A. I believe it was August 24. We can check that Exhibit. If it shows the date of 5:28, I think it is the 24th.

Q. Yes, you are right, August 24, 1961, is that correct? A. Right.

Q. And that was the occasion I think, Mr. Miller, you said that you sat down with Mr. Johnson of Maryland and you discussed the evidence and the issues in the case, point by point. A. Well, I do not know if that is exactly what I said but, in effect, that is what we did. We went through the issues of the case.

Q. In other words, you would take an allegation that was made against the defendants and state what the Government's position was and Mr. Johnson would state what the defense to it was? A. That is correct.

Q. So that, as a result of the conference that you had on that occasion, which I think you said lasted about two hours— A. It was approximately, I would guess, two to two and a half hours.

Q. —At the end of the conference you, as the Assistant Attorney General in charge of the Criminal Division had been supplied with the defense of the defendants to the allegations of the indictments, right? A. I do not know if it was the defense of the defendants because I did not realize that Congressman Johnson was representing the defendants. I mean, this was what his view was of the case.

Q. Yes, he gave you his view? A. Assumed that was his view.

Q. Well, was it his view as to the defenses to the case as you delineated it on behalf of the Government? A. I missed that.

Q. I say, was he giving you his view, in so far as you know, of the case in so far at is constituted defenses to

the allegations of the Government? A. I assume it was his view. I do not know whose view it was. He was giving me arguments that normally you would expect to come from the defense, yes.

Q. And, at the end of the conference, you said to him, "I think it is a case that we should prosecute," was that your conclusion? A. It was my conclusion.

Q. And it had been your conclusion from the beginning, had it not, after your first look into the case? A. Yes. The recommendations to me, of my staff, all the way through this, commencing with the first memorandum I had prepared on April 10, was that it was a case that should be prosecuted.

Q. And you did not waiver from that view; you continued in that position, that it was a case that should be prosecuted? A. I mean, that was my position and I must say that it was the position that was, the correctness of it, was reinforced after I had an opportunity to get down and actually go into the case, itself.

Q. Now, did there come a time, Mr. Miller, when there came to your Division, if you can recall, a suggested disposition of the case from the United States Attorney's office in Maryland? I would fix that some time in November or October of 1961. A. The answer is yes.

Q. And did that suggested disposition of the case, which came from the United States Attorney's office in Maryland, get your approval? A. Yes, what was that—it was the letter. I recall now, it was the letter, Mr. Tydings wrote me a letter and he set forth the suggested disposition of the case and asked if I concurred, and I either wrote back or told him on the telephone, it is fine with me.

Q. And your concurrence was in no way influenced by any factors other than the evidence that you had in the Department of Justice and that you could produce in court and in the law as you believed it to be applicable to that

evidence, isn't that so? A. I hesitate—could you read the question again?

(Mr. Tydings) I do not think the witness understands it but he is a better man than I am if he does.

(Mr. Williams) I will state it again, if you wish. I will try to state it more clearly.

By Mr. Williams:

Q. Your concurrence with the suggestion that was made for disposition of the case by Mr. Tydings' office was the result of your evaluation of the evidence that the prosecution had and of the law applicable to that evidence, was it not? A. Well I think I would almost have to answer that in the negative, Mr. Williams, because I—I mean, the case was a case, as far as I was concerned. That was the determination I was interested in.

Q. Right. A. And from then on, whatever disposition was made, I looked upon as something in Mr. Tydings' bailiwick. True, he wrote me and asked me, because I had talked to him off and on through the year about the case, but, as far as I was concerned, the disposition suggested by him was satisfactory.

Oh, I will take it back. There was one additional fact that I suggested and it must have been about this time, I suggested to Mr. Tydings that, if Mr. Edlin was going to plead, it might be helpful if we could work out an agreement that he would cooperate with respect to his testimony about the treasury note.

Q. Yes, but, Mr. Miller, your concurrence, or your approval, if you will put it that way, of Mr. Tydings' recommendation was in no way influenced by any extrinsic consideration by Mr. Johnson's visit to you or by Mr. Johnson's evaluation of the case, was it? A. No.

Q. It was a determination that you made wholly on your own after getting Mr. Tydings' recommendation, influenced

only by Mr. Tydings' recommendation, is that not so? A. You mean in so far as the sentence—

Q. The disposition? A. When Mr. Tydings wrote and made the suggestion, I mean, I just approved it as a matter of course.

* * * * * *

[Tr. 2241-2252]

(Mr. Genn) Your Honor, I have made, as you know, innumerable motions with respect to conclusions drawn by the witness and so forth. The concern I have is that I objected to this type of testimony with reference to conclusions and its effect upon this factor of prejudice that I have mentioned but I am concerned, also, about the fact that were I to cross examine with reference to the conclusions that he has drawn under the ruling that the Court has indicated to me, I might be waiving the objection that I have previously made to the conclusions that have been drawn.

(The Court) What conclusion?

(Mr. Genn) As to the strength of the case. As to his feelings about the case. What he felt and his opinions.

Now, I have objected to that continuously throughout and there has been continuous questioning about it but, if the Court's opinion is that my objection to that, and motions in reference to that are all going to be waived, I will not cross examine on it.

(The Court) Mr. Tydings, do you agree that Mr. Genn may cross examine the witness without waiving any motions that he may have? I suppose you mean as objections to the evidence, or on motions for mistrial?

(Mr. Tydings) No, I do not agree, Your Honor.

(The Court) Why not?

(Mr. Tydings) Because I think that the Government has bent over backwards in this case with every defendant. I think that every time we have a ruling on evidence, we

have bent over backward to be helpful with the Judge, but time after time, the rulings have been with the defendants and in some cases, where I, personally, thought purely against the law, and you asked me what our position is, and I tell you our position. We think that we have bent over backwards in this case.

* * * * * *

(Mr. Genn)

But I will move then—so the record is clear— to strike those portions which deal with conclusions of the witness as to his feelings about the strength of the case and the matters that I have previously moved to strike on. This was exactly the same objection that I have made at the direct testimony. Must I make it every time a defendant gets up and questions about it in cross? I will just disrupt this trial endlessly. I presume, and I would think reasonable, that the Court would not require me to get up at every question that Mr. Williams or Mr. Doub or Mr. Johnson asks and when they are questioning about conclusions, have to say "Objection, Objection, Objection."

(The Court) I would be happy at any time you made such an objection, to instruct the jury that the strength of that case, or the witness' opinion or the strength of that case against Edlin is not to be considered against Edlin.

(Mr. Genn) You have so instructed the jury previously.

(Mr. Tydings) As evidence of the character of Mr. Edlin but we strongly take the position that when those facts were communicated by the Assistant Attorney General and the Attorney General to Congressman Johnson, a conspirator, that the reasonable inference any reasonable juror would make would be that he communicated these things back to the other conspirators. I think there is a difference.

* * * * * *

(The Court) I will tell you now in the presence of everyone what I have told you, I think, on the record before and that is that, if you have a point on this, it seems to me

to be primarily if the jury should happen to find Mr. Edlin and Mr. Robinson guilty and not find either Mr. Johnson or Mr. Boykin guilty.

Now, for the rest of it, as to Edlin, he can't be found guilty unless Mr. Johnson is found guilty on the 7 particular counts. We have all agreed on that. You cannot find the aider and abettor unless you find him guilty and I do not see how Mr. Edlin can be found guilty of the conspiracy counts unless either Johnson or Boykin is found guilty, too.

It may be theoretically possible. I think your motions come at that point. Now, when this conspiracy is the result of apparent—your client, according to the evidence, spending practically every day in these other people's offices as the evidence shows, what goes on and what may reasonably be inferred are factors which must be taken into account on whether particular statements made were properly—are properly admissible as part of acts in furtherance of the conspiracy and as essential background of acts for which the other defendants are seeking to give innocent explanations which is what I understand the purpose of some of the cross examination has been, to show that certain things done by the alleged co-conspirators were innocently done and it is going to be for the jury to say what the nature of the whole transaction was, but I just do not see how this case can be tried either against everything together or against Edlin separately without all of this evidence being equally admissible.

(Mr. Genn) I think, had it been tried separately, much of this evidence, particularly of the more prejudicial nature would not have been brought into evidence.

Much of it you, yourself, have pointed out has come through cross examination by the other defendants and that would not have occurred had there been a severance or mistrial granted.

(The Court) The conspiracy was one that had to be

tried together in fairness to the administration of justice and I do not think that anything has come in so far that has prejudiced your defendant.

* * * * * *

Volumes 21 and 22 have argument of counsel on motions by all defendants for judgment of acquittal. The Court ruled as follows (T. 2578-2579):

The motions are denied, with the right in the defendants to raise all of these points again at the conclusion of the whole case and particularly that the Court will undertake to examine again this question of one or two conspiracies, and on what theories the case should be allowed to go to the jury on the first count much more carefully after the end of the case than we have gone into that particular aspect of it at this time.

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[2590] OPENING STATEMENT ON BEHALF OF DEFENDANT BOYKIN

Mr. Williams:

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[2605] Now, at this point, members of the jury, in July of 1961, let us look at the picture. The Charles County Land Company, which I will call, for purposes of identification, an Edlin company, owns the Waldorf tract. There is a mortgage outstanding running to Albert Ernest who is really speaking for Tensaw, in the amount of $5,875,000 payable in 17 years. At the same time the Virginia property is held by another company formed by Mr. Edlin known as the Leisure City Land Company, a separate and distinct corporation. It owns title to the Brooke, Virginia tract, the 5,000 acre tract, and it has a mortgage running to Tensaw in the amount of $2,875,000.

Before the month of July was over, before July of 1961 had reached its end, the evidence will show that Mr. Edlin was offered a profit on the Waldorf tract of a half a million dollars by a major New York corporation, willing to come in and take his position and give him a half mil-

lion dollars profit on that ground, and he rejected that offer. And before the year 1961 was over, a company known as the FEDA Realty Corporation began negotiating for the whole shooting match. The FEDA Realty Corporation was a company headed by a man named Frank Finneran from Connecticut, an experienced developer and builder. He had two associates, one [2606] named Curtis Ivy and the other Louis Houck, and they had wide experience in developing real estate and erecting large-scale housing projects. They came in and on December 7, members of the jury, of 1961, December 7, they closed the deal with Mr. Edlin and the terms of the deal were these: FEDA Realty Corporation bought all of the stock of Charles County Land Company; FEDA Realty Corporation bought all of the stock of Leisure City Land Company. The only assets, members of the jury, that either of those companies had was the land, Charles County having the land in Waldorf, Leisure City having the land in Brooke—no cash in the bank, no other assets of any consequence.

And what did FEDA Realty Corporation pay for this? The evidence will show that the terms of the deal were that FEDA would pay $6 million for the stock of Charles County Land Company and Leisure City Land Company. They would assume the existing mortgage running from Charles County Land Company to Mr. Ernest in the amount of $5,875,000. They would assume the existing mortgage running from Leisure City Land Company to Tensaw Land and Timber Company in the amount of $2,875,000.

Members of the jury, on December 7, 1961, the books of the Charles County Land Company showed that Charles County Land Company owed to First Continental [2607] Savings and Loan Association and to First Colony Savings and Loan Association $1,250,000. That entry must be explained by other parts of this defense, by other defendants. We have no information or knowledge as to how that indebtedness was acquired and can give you none.

But also the books of Leisure City Land Company showed an indebtedness running to First Continental Savings and Loan Association of $453,750 and FEDA Realty Corporation said, as part of the deal, "We assume those liabilities. We assume the debts." If you tally up the $6 million that FEDA Realty Corporation agreed to pay for the stock of those two companies, the two mortgages that they assumed, one in the amount of $5,875,000 on Charles County, and one in the amount of $2,875,000 on Brooke, Virginia, and the debt that they assumed of $1,250,000 running to First Continental and First Colony, and the debt of $453,750 running to First Continental, you find that that land was transferred in 1961, just 7 months after the Edlin group got it, for $16,453,750, or a cool profit of over $6 million before the year was out.

Now, very shortly after this deal was completed, First Colony and First Continental Savings and Loan Association were put into receivership and auditors were called in and they audited the books and records of [2608] each of these associations. And when they had audited the books and records completely on the Charles County Land Company indebtedness, the one that showed $1,250,000 running as a debt from Charles County Land to First Continental and First Colony, the auditor concluded that that debt was really only $649,000. It was only $649,000 of money that he could attribute as having gone out of First Colony and out of First Continental property chargeable to Charles County Land Company and Finneran of FEDA Realty Corporation, went out and he got a development loan to go forward on the development of the Charles County Land Company and the first thing that he did was to pay the First Colony and the First Continental the full amount of the indebtedness shown by the audit, dollar for dollar, $649,000. The reason that he was able to get this loan from a company called Kirkeby Natis and a company called Bradford Finance Corporation because Tensaw Land and Timber, Mr. Boykin's company subordinated its whole mortgage on that land and took second position so that today it holds Charles County

Land Company so that FEDA could go out and get money for development purposes, a large section of which was paid back to the S & L's dollar for dollar in the Charles County deal.

Now, the evidence will show that a similar [2609] audit has been made on the Leisure City Land Company indebtedness running to First Continental. And that audit, it is my information, has just been completed and a figure is being arrived at right now on the true amount of moneys that went from First Continental into the Virginia deal and it is Finneran's intention, out of his new development loan to pay that back. And that may happen before this trial is over.

Now, members of the jury, to conclude this complex of land transactions, the evidence will show that this year Mr. Edlin and Mr. Finneran negotiated their indebtedness, FEDA and the Edlin group and they have now settled out. They settled out at a figure considerably below what the original contract called for because there were certain inabilities to perform by the Edlin group but still, even at the settlement figure, the evidence will show that that land was transferred by the Edlin group and the final dollars were paid only a few months ago at a profit and a large profit.

And so I say to you that we will show you in our defense that those land transactions were totally arm's-length transactions, bona fide transactions, and that in the final analysis, Tensaw ended up, after its experience with the Edlin group, in a much less advantageous position that it had theretofore been in because now, [2610] the evidence will show you, that the Ernest Estate, Mr. Ernest now being dead, the Ernest estate which, for all purposes of this trial, is the same as Tensaw, has only a second trust on the land at Waldorf, and Tensaw Land and Timber has subordinated its position on the land at Brooke so that when the new developmental loan is effected, it will likewise have only a second trust or second mortgage on that land, and it is the second mortgage that

runs for 17 years instead of the first trust that they had back in 1961 which ran for only ten years.

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[TR 2614-2651]

MR. MANUEL BUARQUE

By Mr. Doub:

Q. Mr. Buarque, where do you live? A. 5800 - 63rd Avenue, Riverdale, Maryland.

Q. Are you originally from the Eastern Shore? A. I am legally from Dorchester County, Maryland.

Q. During what period of time were you administrative assistant for Congressman Johnson? A. From January 7, 1959 until through January 2, 1963.

Q. In other words, you were his administrative assistant during the full four years that he was a member of Congress? A. Yes, sir.

Q. What did you do before that, sir? A. I was an ordained Methodist Minister and a public school teacher.

Q. When did you leave the ministry? A. I left the ministry to come with Congressman Johnson when he started his term of office on January 7, 1959.

Q. Where did you teach school? A. North Dorchester High School in Dorchester County, Maryland.

Q. Now, will you tell us how Mr. Johnson's Congressional office was organized? A. I was his administrative assistant. We generally had the staff assistant, Mrs. Kiernan and two girl secretaries and one receptionist.

Q. I suppose those girls were located in the outer office, were they? A. Yes, sir.

Q. Was your desk in the outer office, too? A. It was. It was facing the door to the inner office where Congressman Johnson had his desk.

Q. Now, what were your duties, sir? A. My duties

were, as his administrative assistant, to draft speeches, to draft scripts for radio programs; we had 8 radio programs. I also worked on legislation. I had full charge of the office.

Q. Office personnel? A. Yes.

Q. And office management? A. That is correct.

Q. You mentioned radio scripts; what kind of scripts are you referring to? A. We had weekly radio programs, eight of them, on various radio stations throughout the District.

Q. Were those talks or speeches by Mr. Johnson over the radio? A. Yes, they were weekly radio speeches.

Q. Did the office also issue a weekly newsletter to constituents on the Eastern Shore? A. Yes, we got out from, between almost 7,000 to 35,000 a week.

Q. And did you assist in the preparation of those? A. I did.

Q. Was this an easy-going or a hard-working Congressional office? A. It was considered one of the hardest-working Congressional Offices on Capitol Hill, sir.

Q. What committees was Congressman Johnson on?

A. In 1960, he was on the House Committee of Merchant Marine and Fisheries. In 1961 they gave him the important assignment in the House Committee on Foreign Affairs.

Q. And he continued as a member of those committees as long as he was in Congress? A. Yes, he did, sir.

Q. You mentioned that you drafted some speeches for Mr. Johnson; did he deliver those speeches as you drafted them? A. He edited my speeches that I had rough drafted for him, and he scrutinized them carefully, and then, if he saw they merited delivery on the floor of the House, he did the same. Generally, his speeches, sir, were in regard to legislative activity.

Q. If he did not like your speech, what would be do? A. He would throw it in the trash can.

Q. Did he make many speeches in the House during the period he was in office? A. Yes, sir, he made a considerable number of speeches.

Q. Do you recall at any time reading an article in "The Evening Star" newspaper in Washington published on May 27, criticizing the Maryland State Savings and Loan Associations? A. Yes, sir, I definitely do.

Q. And after reading it, what did you do? A. It was published, as I recall, on Friday, May 27, and the first of the following week I did consult the Congressman about it because I considered it to be a smear on an important segment of Maryland economy, the savings and loan industry.

Q. Now, did he bring it to your attention or did you bring it to his attention? A. I carried the "Evening Star" into his office and went over it with him. I brought it to his attention.

Q. Now, do you know about when you did that? A. I would say—well, the speech, the article in the paper by Mr. Hadley, Don Hadley, as I recall the name, in the "Evening Star" was made on May 27 and I presume about June 1 or June 2nd, I did call it to his attention.

Q. About this time did you meet a Mr. Heflin? A. Yes.

Q. Under what circumstances? A. He came to the office with a Mr. William Robinson to visit the Congressman.

Q. Tell the jury what happened, as you recall it. A. Mr. Robinson and Mr. Heflin went in for a short visit with the Congressman. The Congressman came out with Mr. Robinson and Mr. Heflin and he introduced Mr. Heflin to me and he told Mr. Heflin in my presence that "Mr. Buarque generally takes care of these matters. He does my writing and if Mr. Heflin wishes to cooperate with you, why, the discussion would be carried further from this office out here, the outer office."

Q. How was Mr. Heflin introduced to you? A. As a public relations man for independent savings and loan associations.

Q. What, if anything, did Mr. Heflin say to you with respect to this article that had been published in the Star? A. Mr. Heflin felt that there should be some reply made to this article that appeared in the Washington **Star and** I told him that I had already conferred with the Congressman in this matter and he had told me to proceed to write something, and he would examine it.

Q. Now, thereafter, did Mr. Heflin—strike that.
Thereafter, did you do anything in connection with the drafting of a speech answering that article? A. Yes, I did, sir.

Q. What did you do? A. I wrote the speech, in the main. He did furnish me, Mr. Heflin, with some statistics and some facts, but in the main it was my speech.

Q. Mr. Heflin, you say, did send you some material for the speech? A. Yes.

Q. Do you recall a speech by Congressman Cecil King of California? A. Yes, I definitely do.

Q. Who brought that to your attention? A. He sent me a reprint but I had read it previous to that in the Congressional Record as part of my duties was to read the Congressional Record daily, sir. So, I had the Record. He was sending me something I had access to anyhow.

Q. Who do you mean? A. Mr. Heflin sent me a copy of Congressman King's speech.

Q. Do you recall a speech by Congressman Utt of California? A. Yes, I do, sir. He also sent me a reprint of his speech and again I had previous access to the Congressional Record and had read the same.

Q. When you say "he"— A. Mr. Heflin, sir.

Q. Mr. Heflin called it to your attention, too? A. Yes, sir.

Q. I show you what purports to be the Congressional Record of June 30, 1960 and ask you if, on page 1484 there appears the speech on savings and loan associations which was given by Mr. Johnson on that day or delivered to the Speaker for publication in the Congressional Record which has the same effect? A. This is the speech. It was incorporated in the Record, sir.

Q. As it was in the Congressional Record? A. Yes.

(Mr. Doub) I would like to offer this, Your Honor.

(The Clerk) Into evidence.

(Mr. Doub) Yes.

(The Clerk) Defendant Johnson's exhibit 11 marked in evidence.

(Defendant Johnson exhibit 11 received in evidence.)

(Mr. Doub) This is the Congressional Record of June 30, 1960 and this is precisely as the speech appears in the Record on that day.

By Mr. Doub:

Q. I show you a document headed "Congressional Record—May 19, 1960," and ask you what that is? A. That is the reprint of a speech made by Honorable Cecil R. King, captioned "False Confidence in Federal Savings and Loan Insurance Corporation."

Q. Is that the speech to which you have just referred of Congressman King? A. Yes, sir.

(Mr. Doub) I would like to offer it in evidence, Your Honor.

(Mr. Ungar) What is the date of that?

(Mr. Doub) May 19, 1960.

(The Clerk) Defendant Johnson's exhibit 12 marked in evidence.

(Defendant Johnson's exhibit 12 marked in evidence.)

By Mr. Doub:

Q. I show you a photostatic copy of what purports to be a speech of Congressman James B. Utt, in the Congressional Record of April 28, 1960, and ask you if that is the copy of the speech which you testified you saw?

A. This is a copy of the speech by the Honorable James B. Utt of California, captioned "Activities of the Home Loan Bank Board". I read it previously in the Congressional Record. Thank you, sir.

Q. You were referring to defendant Johnson's exhibit No. — A. Yes, I was, sir.

(Mr. Doub) I do not believe I have offered it now.

(The Clerk) Defendant Johnson exhibit 13 marked in evidence.

(Defendant Johnson exhibit 13 marked in evidence.)

By Mr. Doub:

Q. The speech of Cecil King, Defendant Johnson exhibit 12 was made May 19, 1960. That is six weeks before Johnson made his speech? A. Yes.

Q. And the speech of Congressman Utt was made in April? A. Yes.

Q. Several months before Mr. Johnsons' speech? A. Yes.

(Mr. Doub) Now, Your Honor, I am fortunate in having my mouth piece here who will now read these speeches to the jury.

(Mr. Klages) I will read these in chronological order. The first speech is the speech relating to activities of the Home Loan Bank Board, entitled "Extension of Remarks of Honorable James B. Utt of California, in the House of Representatives Thursday April 28, 1960.

"Mr. Utt: Mr. Speaker, a few weeks ago in my Washington report to my constituents I discussed the invisible

and faceless bureaucracy operating through boards, bureaus and commissions so that our citizens are governed by people they have never seen, never voted for, cannot recall through any process of law, and who administers more administrative law than statute law.

"Last week this was brought home most forcibly by the arbitrary, capricious, conspiratorial and unwarranted seizure of the Long Beach Federal Savings and Loan Association by the Home Loan Bank Board under the guise of an 'emergency.' However, in making their announcement of this sudden and unwarranted move, they cited a list of allegations which they said had been in existence since 1947, 1948 and 1949. If these grounds existed 12 years ago, it was the duty of the Home Loan Bank Board to make its move at that time rather than to wait until this savings and loan was in the process of converting from a Federal to a State charter.

"The Home Loan Bank Board made false and libelous statements about the management and caused a run on the association. If any citizen of the United States made such allegations causing a run on a banking or a lending institution, he would find himself in the toils of the law, and would be prosecuted. This seizure is apt to cause a great financial loss to the depositors who are the shareholders of this association, of the surpluses which this association had built up.

"It is a conspiratorial because the Home Loan Bank Board discharged the personnel of the association and installed many personnel of competing institutions in Southern California. The Home Loan Bank Board agent forced the delivery to him of $22 million in cash and government bonds and posted no more than a $1 million fidelity bond, when the bond should have been equal in amount to the cash and the Government bonds delivered to him.

"I have joined with several other members of Congress in Southern California in asking for a complete and im-

mediate investigation of the activities of the members of the Home Loan Bank Board, its employees and agents, in order to protect the depositors of the Long Beach Federal Savings and Loan Association."

"Association" was added by me.

(Mr. Doub) I think that gives enough of the character of that speech so I would suggest that Mr. Klages pass to that of Mr. King.

Mr. Klages: This, ladies and gentlemen, is from the Congressional Record, Washington, Thursday May 19, 1960, House of Representatives, entitled "False Confidence in Federal Savings and Loan Insurance Corporation. Remarks of Honorable Cecil R. King, of California in the House of Representatives, Thursday, May 19, 1960.

"Mr. King of California. Mr. Speaker, the time has come when we must face the fact that the experiment of insuring the public's savings, through the Federal Savings and Loan Insurance Corporation has proven a failure under the present management. The Federal Savings and Loan Insurance Corporation is riding on the coat tail of Government to give the public confidence, a false confidence, under its present management.

"Over its 25 years of operation, the Federal Savings and Loan Insurance Corporation has only about $350 million reserves to insure over $50 billion of savings. Of this $305 million, the Insurance Corporation has committed over 25 per cent to cover a false emergency created by its own unwarranted acts, leaving three quarters of its assets to protect the remaining nearly 4,000 savings and loan associations. Its own reserves at the most are less than three quarters of 1 per cent of the amounts insured.

"A select committee of Congress in a prior investigation of the Federal Insurance Corporation, stated:

'The action here complained of was not only a disservice to the Government but a greater disservice to the people for the protection of whose rights and affairs our gov-

ernment exists. Should the time come when our government is incapable of discharging that fundamental function, it must cease to exist in the form and for the purpose for which the government is identified. The necessity for unquestioned rectitude of purpose, and sound, just and impartial administration of government endeavor is paramount.'

"Over its years of operation, there has been a continuous pressure and grasping for more and more power from this agency. Its ultimate aim appears to be to seize and confiscate the peoples' wealth, under police powers, without the right of the aggrieved to redress. This bureaucratic insurance agency, the Federal Savings and Loan Insurance Corporation, claims it is above and beyond the courts, it is a law unto itself.

"My esteemed colleague, the gentleman from California (Mr. Utt) Republican, in the April 28, 1960 issue of the Congressional Record, reported there is 'the invisible and faceless bureaucracy operating through boards, bureaus and commissions, so that our citizens are governed by people they have never seen, never voted for, cannot recall through any process of law, and who administer more administrative law than statute law.' Mr. Utt's statement seems to fit the operations of the Federal Savings and Loan Insurance Corporation.

"Two major congressional investigations have attempted to ferret out its fallacies. The Special Select Committee of the House of Representatives, headed by the gentleman from Virginia, the Honorable Howard Smith, found the acts of the Home Loan Bank Board, the alter ego of the Federal Savings and Loan Insurance Corporation, to be vindictive, capricious, and a disservice to the public because of its acts of seizing the Long Beach Federal Savings and Loan Association in 1946, as a retaliatory plenary penalty.

"The Long Beach Association shareholders sued for the recovery of their property. The Insurance Corpora-

tion evaded its liabilities by asserting it was beyond the law. It asserted that there was no designated agent upon whom valid service could be made, that it could pick and choose at its own whims which claims it would accept or reject.

"By 1949 the shareholders were vigorously pressing to procure an accounting for multimillion dollars of property seized by this Government bureau and never returned. The Home Loan Bank Board and its alter ego, Savings and Loan Insurance Corporation, responded by attempting to again re-seize the Long Beach Association for liquidation. A special committee of the Government Operations Committee of the House of Representatives under the chairmanship of the Honorable Chet Holifield, commenced investigation of the Savings and Loan Insurance Corporation and its various alter egos.

"A Deputy Attorney General was placed on the witness stand before this second congressional committee in 1951 and admitted that the so-called charges against the association management upon which the attempted liquidation was to be based were for 'horse-trading purposes.' An admission that spurious charges were made against the association management to trade the association and its shareholders out of their claim against the Federal Savings and Loan Insurance Corporation. Spurious charges to blackmail our citizens out of multi-millions of dollars of their wrongfully seized and confiscated property.

"Congress, following such investigations, enacted laws to prevent over again such disaster happening to our citizens. The Housing Act of 1954 was to be a bill of rights for savings and loan associations. Such 1954 act set up an orderly judicial procedure to settle bona fide disputes between supervisory authority and the savings associations, and established strict procedure to force the Federal Savings and Loan Insurance Corporation to designate an agent upon whom court process could be served. The Federal Savings and Loan Insurance Corporation re-

sponded by first attempting to divorce itself from any supervisory control, but Congress refused.

"The Federal Savings and Loan Insurance Corporation then responded by attempting to gain summary police powers over all insured associations, both State and Federal, including the rights to control who shall manage each association. Congress again refused.

"The Federal Savings and Loan Insurance Corporation and its alter ego, the Federal Home Loan Bank Board, then responded by adopting rules and regulations giving itself exclusive police and seizure powers over all Federal savings and loan associations. These self-adopted, self-serving Federal regulations proposed to deny the courts the right to intervene while the agents of the Federal Savings and Loan Insurance Corporation, its alter ego, the Federal Home Loan Bank Board, seize, refuse receipts for negotiable assets, confiscate private property, misrepresent and deceive the public and intimidate our citizens out of their savings.

"Mr. Speaker, my investigation shows the latest seizure of the Long Beach Federal Savings and Loan Association on April 22, 1960, has proved the Federal Savings and Loan Insurance Corporation and its alter ego, the Federal Home Loan Bank Board, to be guilty of these vicious acts of dishonesty and misconduct.

"The Federal Home Loan Bank Board adopted a resolution declaring a so-called emergency."

(Mr. Doub) Your Honor, I think that is sufficient.

(The Clerk) Defendant Johnson exhibit 14 marked for identification.

(Defendant Johnson exhibit 14 marked for identification.)

By Mr. Doub:

Q. Mr. Buarque, I show you defendant Johnson exhibit 14 consisting of ten yellow pages written in pencil and I

ask you what that is. A. It is a rough draft of the speech for the Congressional Record June 30, 1960.

Q. Who prepared that? A. I did that. It is in my handwriting.

Q. Will you look through it and see if its all your handwriting? A. Yes it is.

Q. This is a draft of the speech which is in your handwriting and which you wrote? A. Yes, sir.

Q. Now, I notice some notations on the side, on the margin, for example, on the first page there is a notation in the same handwriting. Suppose you read it. A. "Mr. H. would forward material by Utt and King and suggested several pointers as to outline in general of the speech." Which he did.

Q. That is a notation of the conversation you had with Mr. Heflin? A. On the telephone, yes, sir.

Q. Now, will you read the next notation on the margin on the first page? A. "P.R. for ind. S & L Assoc." I abbreviated here, which I always did. This is how he was introduced to me. That appears on the side of my rough draft.

Q. Read the rest of the notation. A. The rest of the way down?

Q. On the margin. A. "Telephone conversation with Hef. Stated the number of ind. savings and loan associations. Speech must be made—

(Mr. Tydings) What was the last thing?

(The Witness) "Telephone conversation with Hef. Stated the number of ind. savings and loan associations in the State of Maryland."

And I have circled down here "(427)".

"Speech must be made applicable to our State" is what I have here.

By Mr. Doub:

Q. Will you state the reference to the number of Maryland savings and loan associations? A. 427, sir.

Q. And you obtained that from Mr. Heflin? A. Yes, sir.

Q. Did you obtain from Mr. Heflin anything as to the amount of assets, total assets in the aggregate of Maryland savings and loan associations? A. Yes, I did. I had put down here $300 million in my speech, and he said I was incorrect, it was $1.3 million in our conversation, and that is what I incorporated in the speech, 1.3 million.

Q. As a matter of fact, you were right the first time? A. Yes, sir.

(The Clerk) That has only been marked for identification.

(Mr. Doub) I am sorry. I would like to offer Defendant Johnson's Exhibit No. 14.

(The Clerk) Defendant Johnson's Exhibit No. 14 previously marked for identification now marked in evidence.

(Defendant Johnson's Exhibit No. 14 was received in evidence.)

By Mr. Doub:

Q. Mr. Buarque, did Mr. Heflin participate with you in the drafting or redrafting of that speech? A. Physically he did not. We had conversations on the telephone, but physically he had nothing to do with my writing of that rough draft there at all.

Q. Did he ever submit to you any drafts of the speech? A. None, whatever.

Q. Did you show it to him when it was in final form and Mr. Johnson was ready to deliver it? A. I read it to him on the phone.

Q. You read it to Mr. Heflin on the telephone? A. Yes, I did.

Q. Now, before and during the time that you drafted that speech did you receive any material for it from Mr. Robinson? A. No.

Q. Did you receive any drafts of a speech prepared by Mr. Robinson? A. No, I did not.

Q. Did you receive any material from Mr. Edlin? A. No.

Q. Did you receive any draft of the speech from Mr. Edlin? A. No.

Q. Did you receive any material from Mr. Edlin or Mr. Robinson in connection with the speech? A. No, I did not.

Q. Did you have any correspondence with Mr. Edlin or Mr. Robinson with respect to the preparation of that speech? A. No, sir.

Q. Did you discuss it with Mr. Edlin or Mr. Robinson? A. I did not.

Q. Now, after you prepared your final draft of the speech, you submitted it I suppose to Mr. Johnson?

A. Yes, sir.

Q. And did he make any changes in it or not? A. I had gone over previously with him, sir, this speech, and some outlines of a rough draft speech in which I belabored in my own way of writing the Home Loan Bank and he wanted that stricken and I did, and in the final copy of the rough draft I have here it was deleted.

Q. He deleted or had you delete certain parts of it? A. Yes.

Q. Do you recall what they were? A. It was with respect to the Federal Home Loan Bank which I considered the alter ego for the SLIC.

Q. What is that? A. Federal Savings and Loan Insurance Corporation. He felt that my writing was rather

strong and too suggestive and asked me to delete it and I did.

Q. You mean too critical? A. Yes.

Q. Who was present when you submitted your final draft of the speech to Mr. Johnson? A. He and I alone.

Q. Now, at that time or at any earlier meeting with him, did you have any discussion with him as to why he was interested in making this speech and, if so, what was said?

A. It was sort of a three-step thought that he had as well as a three step thought that I had.

First, we considered it to be a smear against the savings and loan industry of the State of Maryland.

Q. When you say that, what do you mean? A. The article that appeared in The Evening Star which was captioned "Savings and Loans Urged to Warn public of Maryland Phonies," and that was the caption. He considered this to be, or I did and he though in similar vein, that this was a smear against the entire Maryland Savings and Loan industry.

Secondly, the Congressman also felt that this might be an issue which he could grasp because he had some ambitions for 1964 and he was looking for a statewide issue and this seemed to have pertinent factors pointing that way.

Q. Was there any discussion of the 1960 campaign? A. In the 1960 campaign he thought it would be a good thing because here was something in our discussion lampooning a very important segment of the Maryland economy and he thought this would be very important to him in the 1960 election.

Q. Now, does that speech contain any reference by name or otherwise to First Continental Savings and Loan Association? A. No, it does not.

Q. Does it contain any reference to First Colony Savings and Loan Association? A. No, it does not.

Q. Does it contain any reference to any named association? A. No, it does not.

Q. When did you first meet Mr. Edlin and Mr. Robinson? A. To the best of my recollection, it was the latter part of March, 1960.

Q. In what connection did you meet him? A. They were there with a group to discuss private financing for the Assateague bridge. That was their objective.

Q. Now, did you ever discuss that speech or the contents of that speech with Mr. Edlin? A. No, I did not.

Q. Did you discuss its contents at any time with Mr. Robinson? A. No, sir, I did not.

Q. I show you Government exhibit 54 which purports to be a draft of a speech dated May 2, 1960, and to have been attached to a letter from Mr. Robinson to Mr. Heflin dated May 3, 1960. I ask you when you first saw that draft of a speech by Mr. Robinson? A. I first saw this draft a few days ago when you showed it to me and asked me to compare it with the speech that was in the Congressional Record.

Q. Did Mr. Heflin ever show you that? A. No, the first time I ever saw this was when you showed it to me.

Q. Last week? A. Last week, sir.

Q. Now, at my request did you make a comparison of that draft of a speech with the speech which Congressman Johnson delivered? A. I did.

Q. And will you tell the jury whether there are sentences in Mr. Robinson's draft which are contained in Mr. Johnson's speech?

(Mr. Tydings) You mean verbatim, or the idea, or the thought?

(Mr. Doub) No, I mean verbatim.

(Mr. Tydings) There have been no representations it was verbatim.

By Mr. Doub:

Q. Go ahead. A. Repeat the question.

Q. In that draft of a speech by Mr. Robinson which you testified you never saw until last week, will you tell the jury to what extent you found it was comparable to the speech Mr. Johnson delivered? A. It is totally dissimilar and we would not even use such diatribe in Congress ourselves. I have read through it.

Q. I do not want that. A. I am sorry. No, it is totally dissimilar.

Q. Totally dissimilar. A. Yes, sir.

(Mr. Doub) If any members of the jury would like to look at it.

(The Court) If you want to read them both to the jury, you cannot wait until each member of the jury reads both of them. It will take all day. If you want to read them both to the jury, you may do so.

(Mr. Doub) No, Your Honor, I suggest they be permitted in the next recess to take them both with them.

(The Court) Mr. Williams objected to my allowing that to be done the last time I had suggested that some documents be taken.

(Mr. Williams) In fact, I did not object, Your Honor, on the specific documents. I wondered whether the practice was a good one on all documents but I certainly have no objection to this.

(Mr. Doub) I didn't object, Your Honor, when the Travelers checks went out with the jury.

(The Court) I wanted to be sure each defendant had an opportunity to object to what anyone does. The objection was made when I did it before and if the Government has no objection, the jury may take them out then.

By Mr. Doub:

Q. Mr. Buarque, after that speech was made by Congressman Johnson on June 30, 1960, did you receive a request for reprints from Mr. Heflin? A. Yes, I did.

Q. And did he telephone you or come to see you? A. He telephoned me and requested 10,000 reprints, sir.

Q. What did you reply to him? A. Well, I replied to him that Congressman—after discussing it with the Congressman, he would not bear the onus of responsibility as far as financing or the distribution of the reprints.

Q. Well, who did you say had to pay for them? A. I told him he would have to pay for them or someone else would. The Congressman would not do so.

Q. Was anything said in the course of that telephone conversation with Mr. Heflin about a caption? A. Yes, he asked if the caption could be changed and I did not see why not. When he read the caption to me that he wanted, after looking at the caption, and the Honorable Cecil King had used, I did not see anything wrong in using a different caption.

Q. And after you received that order for 10,000 prints, what did you do? A. I told Mrs. Kiernan to order the 10,000 and she did so. She signed the order for 10,000 reprints.

(Mr. Doub) I might say, Your Honor, this: The record of the Government Printing Office, which is in evidence is signed by Mrs. Kiernan as the person who ordered them from Mr. Johnson's office.

By Mr. Doub:

Q. Now, later, did you receive a second order? A. Yes, he called again and this time he wanted 40,000 reprints.

Q. What did you tell him? A. Well, I questioned him with respect to the volume of reprints. The number, although I know Congressmen like to get advertisements. I thought this was an unusually large number and he said, "Well, it is not too large" and suggested to me that Mr.

Cecil King's reprints had gone out in the number of some 50,000, so we ordered 40,000 more reprints.

Q. Now, did you see the check which is in evidence, paying for the reprints? A. Mrs. Kiernan handled the check and took it directly to the Congressman.

Q. Do you recall when that check came in and when it was presented to Mr. Johnson for his endorsement over to the printing office? A. That is correct, I remember it, yes, sir.

Q. You do remember it? A. Yes, sir.

Q. Were any of these reprints left at Congressman Johnson's office for office use? A. I requested some four to five hundred for our own personal use when the 10,000 order was made, and when they came in, I asked for four or five hundred reprints to be left for our files.

Q. Why? A. Well, I felt that perhaps we would have people writing in and I would want to send them copies of the reprints.

Q. The reprints which were left at your office and put in the file, were any of them underscored or marked? A. No, sir.

Q. They were not? A. No.

Q. Where were they kept in the office? A. In a file captioned "Savings and Loan Association." We had a file of that nature.

Q. Were any of them kept out on a table so visitors might have access to them? A. No, sir, we did not keep them out on any table.

Q. Did you see Mr. Heflin after that? A. After the 40,000?

Q. Yes. A. I did not see him any more that year, no.

Q. What response, who public reaction was there to Mr. Johnson's speech? A. We had considerable public

reaction to that speech. We had letters coming in as far away as Idaho and Texas and various other parts of the United States with respect to that speech.

Q. I show you some correspondence and ask you what it is. A. This first one here is a thermofax copy from the Idaho Savings and Loan Association from a Mr. Ernest Garrett who is the Assistant Vice President in which he requested one hundred copies of the speech from the Congressional Record.

Q. I notice a notation down there "150" in pencil, and what is that? A. The reason there is "150," down there, we sent approximately 150 copies of the reprints to this association in Idaho.

Q. And attached to that letter from the Idaho Savings and Loan Association I then notice there are other requests for copies of reprints of the speech, are there not? A. Yes.

Q. Were those requests complied with? A. Yes.

Q. Will you state the place of origin of request there; are there any others from outside of Maryland? A. Well, this is from Washington, D.C., sir. This is from a Mr. Stewart Goldsborough in Washington, D.C. and he wanted to use portions of the speech. He asked for permission to use certain excerpts from the speech, which was granted.

Q. Look through the rest of them. A. This is from Mr. Robert Mullen and he is from Alice, Texas and he was very interested in getting copies of the reprints because, in his letter to us, he thought there was a vendetta existing between Federal Savings and Loan and Independent Savings and Loan Associations.

Q. Where are the others from? A. This is from Mr. Marty Lefkoe, from the Research Department, Jessup and Lamont, New York City, New York and they wanted a copy of the speech as well. This is one from Mr. Robert J. Lamecki from Baltimore, Maryland and he wanted twenty copies and they were subsequently sent to him.

On his letter addressed to us there was a notation here which—well, it is not my writing but I had discussed this with Mrs. Kiernan. It is her notation of Mr. Heflin and his telephone number and she puts in shorthand there that our supply is exhausted and as soon as possible we have some more reprints which we had another 150 or 200 sent up to the office, and we got them out as they came in, as requests for them came in.

(Mr. Doub) I would like to offer these collectively, Your Honor.

(Mr. Tydings) Could we see them, Mr. Doub?

(Mr. Williams) I want to see them, too.

(The Court) Mr. Tydings, just read them for admissibility at this time.

(Mr. Tydings) We have no objection to their admissibility.

(The Court) If you haven't any, you will have an opportunity to look them over before the recess or before cross examination if you wish.

(Mr. Tydings) We have no objection to their admissibility.

(The Court) The only question is admissibility at this time.

Mr. Williams wanted to see them, I believe.

(Mr. Williams) I do not want to delay anything.

(The Court) If you want to see them, just on admissibility. You will have an opportunity to examine them also before cross examination.

(Mr. Williams) I just wanted to see them on the grounds of curiosity, Your Honor.

(The Clerk) Defendant Johnson's Exhibit 15 marked in evidence.

(Defendant Johnson Exhibit 15 marked in evidence.)

(The Court) Mark the whole group 15 and let the top one be A and let the others be marked B, C and so on, and to save time you can start reading the first one.

(Mr. Doub) That is the only one I intend to read.

(The Court) Why don't you read that and Mrs. Zielinski can mark the others later.

(The Clerk) Defendant Johnson's Exhibit 15 marked in evidence.

(Mr. Doub) This is a thermofax of a letter dated August 25, 1960, on the letterhead of Idaho Savings and Loan Association, Pocatello, Idaho, addressed to Honorable Thomas F. Johnson, House of Representatives, Washington, D.C.,

"Dear Sir:

"We wish to commend you for your bold attack on the smear of the savings and loan industry by the Washington Star and by the Federal Savings and Loan Insurance Corporation. We are very grateful for honorable men like yourselves and Mr. Utt of California who are instrumental in seeing that the public is not duped by the false and misleading and illegal advertising of the so-called 'Federally insured savings and loan associations.'

"While your remarks primarily pointed to Maryland Associations, we consider you a champion of all independent state-chartered associations.

"We appreciate very much your forthright declarations in behalf of the independent associations.

"We would appreciate it very much if you could send us one hundred reprints of your remarks in the Congressional Record of the 86th Congress, Second Session, dated June 30, 1960.

"Thank you again and keep up the good work.

"Very truly yours,

"Idaho Savings and Loan Association

"By Ernest A. Garrett,

"Assistant Vice President."

(The Clerk) Johnson Exhibit 15-A through F marked in evidence.

(Defendant Johnson Exhibits 15-A through 15-F received in evidence.)

By Mr. Doub:

Q. Do you recall, Mr. Buarque, a fund-raising campaign luncheon at the Lord Baltimore Hotel for Congressman Johnson in July, 1960? A. Yes, I do.

Q. Were you present? A. I was.

Q. What was the purpose of that luncheon? A. To raise funds for the Congressional campaign in 1960, the fall of 1960.

Q. And what was the date of the luncheon, do you remember? A. You just told me the 19th of July and I remembered anyway, because I was there.

Q. Do you know whether Mr. Robinson or Mr. Edlin were there? A. I do not recall that Mr. Edlin was there. Mr. Robinson may have been but I do not recall either one being there. He may have been there. I do not know.

Q. Was this luncheon well attended? A. Yes.

* * * * * *

[Tr. 2687-2695]:

CROSS EXAMINATION

By Mr. Williams:

Q. Do you remember telling the grand jury at that time that you first met Mr. Robinson and Mr. Edlin, as you did

today, in the spring of 1960, in connection with the bridge, but that neither Mr. Robinson nor Mr. Edlin were present in Congressman Johnson's office during the period prior to the speech of Congressman Johnson on June 30, 1960? A. I don't recall that, sir.

Q. Do you remember this question? Do you remember whether you were asked this question, on pages 13, 14 and 15 of the grand jury transcript:

"Question: When did you first meet Mr. William L. Robinson?

"Answer: I met Mr. Robinson and even Mr. Edlin, it was either the latter part of April or the latter part of March or the first part of April 1960. They came to the office with an attorney in Washington by the name of Marshall Diggs and another one, Taylor Bryant, and I believe it was in connection with the Assateague Bridge. He told the Congressman he was acting as an agent for the Assateague group. He came up in the District and worked with the Congressman on those matters. They were trying to get this group to underwrite a bond of some $6.1 million, as I recall it. I don't know what happened. Anyway, it didn't occur, but that is the first time I met either one of them. It was in connection with the Assateague Bridge plan.

"Question: Were they friends of Congressman Johnson's or just close acquaintances?

"Answer: Who was that?

"Question: Edlin and Robinson.

"Answer: That was the first time I had ever seen them.

"Question: How about Congressman Johnson as far as you know?

"Answer: I don't know. That is the first time I met them.

"Question: Did you introduce them to Congressman Johnson?

"Answer: No, they introduced themselves. One said, 'I am Mr. Kenneth Edlin,' and the other one said, 'I am Bill Robinson, from Miami, Florida.

"Question: Did they both go into the office?

"Answer: They were in with Mr. Marshall Diggs, and Mr. Bryant and another one. I don't know what his name was.

"Question: They were discussing the Assateague Bridge?

"Answer: That is correct.

"Question: When was the next time they came to your office? Did they come to your office prior to the Congressman's speech?

"Answer: No, I don't recall them, seeing them in the office prior to the speech."

Do you remember being asked that question and giving that answer to the grand jury on April 25, 1962, Mr. Buarque? A. I probably was if you say so, counsellor.

Q. What is your recollection? Do you recall giving that answer? A. I recall the testimony I made this morning, that that was the first time I had met them was over the Assateague Bridge. It was.

Q. Now, you produced a draft, Mr. Buarque, which was marked Defendant Johnson's Exhibit 14. Is this the only draft of the speech that was prepared? A. By me.

Q. Was this the only draft of the speech prepared by anyone? A. I don't know about anyone else. This is what I prepared, sir.

Q. You only prepared one draft? A. I prepared several initial drafts. That was the final composition, the final form that took place.

Q. This was the last draft? A. Yes, that was the final form that took place.

Q. This Johnson Exhibit 14 contains two holes at the top. Did you extract it from a file before you produced it? A. I have a large file of rough drafts, sir. It was taken out and given to Mr. Doub.

Q. You gave him all of those prior drafts? A. I have a lot of drafts.

Q. And there were prior drafts of this speech that haven't been produced here today? A. No, there wasn't, because they were more or less scratched out on yellow foolscrap paper. It wasn't in continuity at all.

Q. And you threw them out? A. Oh, yes.

Q. That is the only draft? A. That is a rough draft of the final speech, yes, sir.

Q. Now, Mr. Buarque, in connection with this speech, how many times did you speak to Mr. Heflin over the telephone about it? A. Over the telephone maybe three times.

Q. Three times. And how many times did Mr. Heflin come to your office to discuss it? A. Two or three times.

Q. Two or three visits in the office and two or three times over the telephone? A. Yes, that is correct.

Q. And did he submit you a draft? A. Well, if he did, I didn't see it.

Q. Wasn't he working on the speech first and then you worked along with him? A. No.

Q. I think you mentioned a Mrs. Frances Kiernan in your direct testimony. Did you see her when she came up here to testify on April 10, 1963? A. I saw her when she entered the door, yes, sir.

Q. Do you recall ever telling Mrs. Kiernan at the time of the speech, "Mr. Heflin is working on the speech, and I am going to work on it with him"? A. Well, I consider

his work on it the furnishing me with certain statistics and facts, which is permissible. On the Hill all congressional assistants use facts and material from wherever they get it. He furnished these facts, and I incorporated them in the speech.

Q. Do you remember telling Mrs. Kiernan that Mr. Heflin is working on the speech, and I am going to work on it with him? A. No.

Q. Do you deny telling Mrs. Kiernan that? A. No, I don't deny telling her anything. I know I constructed the speech and he furnished me the facts, between the two of us. As you say, we made the speech, but as far as him furnishing me a draft, it simply isn't so.

Q. Did you ever give him a draft to take out of the office? A. I didn't give him any draft.

Q. Did he ever take a draft out of the office? A. If so, I do not know.

Q. You don't know? A. If he took one out, I do not know, I said, sir.

Q. Nobody else was making any drafts other than you? A. He furnished me with the facts. He gave me a list of facts he would like to see me incorporate in it, which I did.

Q. Did he give you a list of facts of things he would like incorporated in the speech before you made your first draft? A. No, he did not.

Q. He gave it to you as you were making the draft? A. That is correct.

Q. Now, can you tell us whether or not at the time the drafts were being made and before the speech was delivered it was contemplated that this speech would be reprinted and Mr. Heflin, after it was made, would then order copies of the reprints? A. I wasn't advised to that effect.

Q. Now, these notes that you made on the draft, you

made them while they were still a draft, didn't you? A. That is correct.

Q. And do you remember—let me read you this note in the lefthand margin of page 5:

"Mr. Hef. telephoned re caption for reprints and reference to King speech"?

A. Yes, he mentioned in one of the telephone calls that he would like to see the caption changed.

Q. Before the speech was delivered. A. But I didn't change it before it was delivered.

Q. He talked to you about reprints and the caption for reprints before the speech was delivered? A. Yes, he said he would like to see the caption changed, but we didn't change it at that time.

Q. You mean you were already discussing the caption for reprints at the time the speech was still in draft form and before it was delivered? A. I discussed this with him, and I told him I would take it up with the Congressman. We discussed it, and he told me he didn't care what we did.

Q. That was before the speech was delivered? A. The final speech was delivered on the floor. I discussed it with him. I hadn't yet adopted the caption.

Q. The question is: I will ask it again. The discussion with Mr. Heflin—answer this yes or no, please—the discussion with Mr. Heflin with respect to reprints and the caption for reprints occurred before the speech was delivered? A. Yes, because I thought they were unimportant. The caption was unimportant.

Q. Now, in the speech you say you make no reference to First Colony, but in the text of the speech you say, do you not, there are exactly three—I think that is the wording of the speech—exactly three institutions under indictment, but none tried. Is that right? A. That is correct.

Q. And you did some research into determining which associations were under indictment at the time of that speech? A. I read newspapers.

Q. Did you go back into newspapers? A. I read something in the newspapers about it, yes.

Q. Did you do that research yourself or did you have the research arm of the Congress help you with that? A. I did it myself because I get a daily newspaper.

Q. And you found then that there were exactly three institutions under indictment, is that right? A. Yes.

* * * * * *

[2711] (The Clerk) State your name.

(The Witness) Marshall R. Diggs.

(The Clerk) Take the stand, please.

DIRECT EXAMINATION

By Mr. Doub:

Q. Spell your last name, sir? A. D-i-g-g-s-.

Q. Mr. Diggs, where do you live? A. Washington, D. C.

Q. You are a lawyer? A. Yes.

Q. What government positions have you held in the past? A. Well, I was executive assistant to the Comptroller of the Currency, was First Deputy and Acting Comptroller of the Currency.

Q. During what period of time were you Acting Comptroller of the Currency? A. In 1938.

Q. Now, in 1960 were you head of a group which was promoting a privately owned bridge from the mainland to Assateague Island? A. I was Chairman of the Board of the Assateague Island Bridge Corporation which was trying to build a bridge across from the main land to the Island.

Q. Your company was interested in private financing for the construction of that bridge? A. Yes.

Q. Did you meet, in the course of your efforts to promote that bridge, Mr. Kenneth Edlin? A. Yes.

* * * * * *

[2713] Q. Now, did Mr. Johnson have any relationship to this group that was interested in this construction of this bridge? A. Yes, Mr. Johnson was the attorney for the Bridge Corporation along with other attorneys here in going before the Public Service Commission and the Securities and Exchange Commission.

Q. And, do you know whether he met Mr. Edlin and Mr. Robinson in connection with these negotiations? A. Well, I know that they were discussed and I assume he met with that. I do not know exactly how he met them but they were discussed with Mr. Johnson.

* * * * * *

[2716] By Mr. Doub:

Q. Now, after that, was there a later proposal with respect to a loan to the Bridge Company in June or July, 1960, Mr. Diggs? A. There was a later proposal made by Mr. Edlin.

Q. All right. And was that proposal accepted or rejected? A. It was rejected.

Q. It was rejected and that was a proposal for a substantial loan for the construction of the bridge? A. Yes.

Q. Which was made to your bridge company? A. It was while I was away.

Q. So the final negotiations for a loan with Mr. Edlin or the institutions he represented were not concluded until July of 1960? A. Sometime after July.

(The Court) He said no, the end of the proposal was made while he was away. Mr. Tydings will stipulate that with you and you can save time. I do not see how this witness knows.

(Mr. Tydings) If Mr. Doub will represent to us that that is the fact.

[2717] (Mr. Doub) I do not represent anything. I am trying to find out from the witness. Were there any renewed negotiations after July of 1960?

(The Witness) I think they were finally turned down in August while I was away.

By Mr. Doub:

Q. In August? I see. A. August of 1960.

Q. Now, I show you a letter on your letterhead and ask you what that is? A. This is a letter written the 26th of July to Mr. Johnson, telling him "I am going to leave for London and that I have asked Mr. Edlin to submit his proposal to the Board in writing."

Q. So apparently, his proposal was made after the date of that letter? A. Yes.

* * * * * *

[2719] By Mr. Doub:

Q. In connection with this Assateague bridge project, do you recall having a luncheon in May of 1960 at the Congressional Hotel with Mr. Johnson and Mr. Edlin and, I believe there was also there, Mr. Rains and Mr. Heflin; do you recall any such luncheon? A. Well, I think that there was a lunch at some time. When it was, I do not know. Sometime in the spring before I went away.

Q. Do you recall whether it was at the Congressional Hotel? A. Yes.

Q. Do you recall that Mr. Johnson was there? A. My recollection is that he was there.

Q. How about Mr. Edlin? A. He was there, my recollection is.

Q. And then were there any strangers there, too, strangers to you, Mr. Diggs? A. Mr. Heflin was there.

Q. Mr. Heflin? A. I do not know who else. I just remember Mr. Edlin; Mr. Johnson and Mr. Heflin.

Q. Do you recall what was said at that meeting by anyone? [2720] A. Well, we were discussing the financing of the bridge. That is what I went there for, to discuss, because I was interested in trying to get this bridge built, and that was the purpose of the luncheon as I remember it.

Q. Well, how was Mr. Heflin introduced to you? A. Well, I knew Mr. Heflin because he had been—he was a friend of Mr. Daly's. I had met him in the office there with Mr. Daly so I knew him before I went to the luncheon.

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(Vol. 24 [2734])

(The Jury is absent.)

(At the Bench.)

(Mr. Doub) Your Honor, counsel for the other defendants have prevailed upon me to withdraw my request to read the grand jury testimony of Mr. Buarque to the jury in full. I might say it is not more than a re-hash of what he has already said.

[2735] (The Court) I do not have to tell the jury anything.

(Mr. Doub) We will go ahead with the redirect if there is any for Mr. Buarque.

(Mr. Tydings) The Court has to give the jury an explanation of why it is not going in and Mr. Doub can state it is withdrawn.

(The Court) You may do it on the jury. You made this play before the jury and I think these are not the same gestures but I think you must say you withdraw your request. It ought not be on the government. Say you withdraw your request that it be read.

(Mr. Doub) If we just go forward with the redirect, it seems to me that is all.

(Mr. Tydings) No, no.

(The Court) I will say that Mr. Doub has withdrawn his request and let it go at that. Just as simple as that.

(Mr. Genn) Just for the record, Your Honor, we want it clear that these are things we did not know about and we should not be left with the [2736] opprobrium of what other counsel have done.

(The Court) Mr. Doub has withdrawn request that it be read.

(Mr. Genn) In other words, the jury has been presented with the fact of the offer.

(The Court) You are being paid to represent your client and it is not for me to represent or to try to do anything except to hold an even balance. If Mr. Doub has cast opprobrium or created something that made you object or made Mr. Williams object. As the one that objected first I do not know how I can stop it.

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[2741] (The Court) Members of the jury, Mr. Doub has withdrawn his request that the entire testimony of Mr. Buarque before the Grand Jury be read to you. Therefore, we can proceed with his cross examination. Do you have any cross examination of Mr. Buarque, Mr. Williams?

(Mr. Williams) I do not.

Thereupon

MANUEL BUARQUE

a witness, having been previously sworn, resumed the witness stand and was examined further as follows:

(The Court) Do you have any questions, Mr. Genn?

(Mr. Genn) I do not.

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